

COUNCIL AGENDA: 10-24-06  
ITEM: 5.3

## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Albert Balagso  
Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** 10-10-06

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

10/11/06

**COUNCIL DISTRICT:** CW

**SUBJECT: PROPOSED CHANGES TO THE PARKLAND DEDICATION AND  
PARK IMPACT ORDINANCES AND THE ASSOCIATED RESOLUTION  
SETTING FORTH THE SCHEDULE OF IN-LIEU FEES CHARGED AND  
CREDITS ISSUED PURSUANT TO THESE ORDINANCES**

### RECOMMENDATION

1. Approve adjustments of the in-lieu fees for the Parkland Dedication and Park Impact Ordinances to 100% of the 2005 land values as listed in Attachment A of this report.
2. For each item listed under the "Base Recommendations" in Attachment B of this report, accept staff's recommendation for amendments to the Parkland Dedication and Park Impact Ordinances and associated Fees and Credits Resolution.
3. Direct staff to return to the City Council with a revised ordinance and associated fee resolution which reflects the Council's above recommendations.

### OUTCOME

Staff has proposed a number of amendments to the Parkland Dedication and Park Impact Ordinances and the associated fee resolution. If approved by the City Council, City staff will return with the amendments that accomplish the following:

- Use the 2000 federal census data for household size to calculate the in-lieu fees and land dedication requirements under both ordinances;
- Base the in-lieu fees on the current land value study;
- Provide additional elements eligible for private recreation credit;
- Add additional eligible uses of park trust funds to include trails, schools, community gardens and/or other recreational facilities; and
- Allow residential projects with a permit or tentative map approval to be grandfathered under the current fee structure for a period of time.

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### **EXECUTIVE SUMMARY**

The City of San Jose enacted the PDO in 1988 to help meet the demand for new neighborhoods and community parkland generated by the development of new residential subdivisions. The City's PDO is consistent with the State's Quimby Act (Government Code Section 66477). In 1992, the City Council adopted the PIO, which is similar to the PDO, but applies to new non-subdivided residential projects such as apartment buildings. Under the PDO and PIO, housing developers are required to dedicate land, pay a parkland fee in-lieu of dedication, or both, for neighborhood and community park or recreational purposes.

In 1998, the City enacted amendments to both the PDO and PIO and the associated fee and credits resolution. The 1998 amendments revised the methodology for calculating the in-lieu fees under both ordinances to link these fees to land values within various zones in the City. The last time the PDO/PIO fees were adjusted was in 2002 to 70% of the values in the 2001 Residential Land Value Study. With the dramatic real estate boom over the past decade, property values have skyrocketed in San José and it is becoming increasingly difficult for the City to purchase land for park development since the current fees are based upon outdated land values. By adjusting the in-lieu fees to the latest Residential Land Value Study, the City will have the ability to more quickly acquire and develop parklands, as opposed to waiting to accumulate sufficient funds, which is the current practice today.

City staff has developed a list of proposed in-lieu fee adjustments and ordinance changes that have been presented to both internal and external stakeholders at a number of meetings to gain input and feedback prior to the development of the final report for Council consideration. These include, but are not limited to, the following:

- Adjusting the in-lieu fees to 100% of 2005 land values. Currently, the fees are set at 70% of 2001 land values;
- Adding "recreational facilities" to the list of eligible facilities under this program. Specifically, this will allow the City to spend in-lieu fees on trails, which are currently ineligible to be funded from the in-lieu fees;
- Providing more flexibility in the private recreational amenities for which developers can receive credit;
- Consideration of dual stormwater facility and recreational use of parklands to help meet stormwater treatment and hydromodification requirements, provided that long-term funding sources for the maintenance of these dual-use locations is guaranteed.

The proposed changes to the Ordinances and Schedule of Fees and Credits will expand the City's ability to use in-lieu fees to enhance the parks system while permitting private recreational credits for such improvements as private garden plots, urban plazas and/or private gardens open to the public, and dog park amenities.

## **BACKGROUND**

### *Project Chronology*

Over the past several years, the Department of Parks, Recreation and Neighborhood Services (PRNS) has conducted an extensive review of the City's Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO)<sup>1</sup> (the PDO and PIO are hereafter collectively referred to as the "Ordinances"). On April 19, 2005, a report was presented to the City Council which included a summary of recommended changes to improve the administration and application of the Ordinances. The City Council accepted the staff report and a public hearing was subsequently scheduled to allow for additional public comment and community participation. On June 21, 2005, the City Council directed staff to defer the proposed changes to the in-lieu fees until the reconciliation and redistribution of the Park Trust Fund was completed and reported to the City Council.

On June 20, 2006, PRNS and the Finance Department staff presented a reconciliation report on the Park Trust Fund to the City Council for approval. The City Council accepted staff's reconciliation report and directed staff to return in September 2006 with a menu of options and strategies for implementing adjustments to the in-lieu fees and recommendations for other changes to both Ordinances.

On July 26, 2006, PRNS staff provided an information memorandum to the City Council outlining the anticipated public outreach schedule for returning to the City Council with the subject changes. Staff indicated that these changes would be presented to the City Council in October as opposed to September to ensure adequate time for public outreach. The specific outreach performed from July 2006 through September 2006 is discussed in detail in the Public Outreach section of this memorandum.

### *Overview of the PDO and PIO*

The PDO was adopted pursuant to the City's Charter and is consistent with the State's Quimby Act ("Quimby"). The State of California, recognizing the demand placed on cities and counties for added parklands and recreational facilities caused by new housing developments, promulgated Quimby. Quimby permits a city or county to impose by ordinance the requirement for parkland dedication, the payment of fees in-lieu thereof, or a combination of both, for park or recreational purpose as a condition to the approval of a subdivision of land for a residential project.

The purpose of the PDO is to help the City meet the demand for neighborhood and community parks generated by the development of new subdivided residential projects. The PDO incorporates the standard for dedication of neighborhood and community serving parkland

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<sup>1</sup> The PDO is in Chapter 19.38 of the San Jose Municipal Code and applies to subdivided housing projects. The PIO is in Chapter 14.25 of the San Jose Municipal Code and parallels the parkland fee and dedication requirements in Chapter 19.38, and applies to non subdivided housing projects.

specified in the Quimby Act at 3 acres per 1000 new residents. This standard is less than the City's General Plan goal of 3.5 acres per 1000 residents because the City's inventory of neighborhood/community serving parkland at the time of adoption of the PDO was (and still is) less than 3 acres per 1000 residents.

In 1992, the City Council adopted the PIO, which applies parkland dedication requirements that parallel the PDO requirements to new units in non-subdivided residential projects. The Ordinances require that new housing projects dedicate land for public parks, pay a fee in-lieu of dedication, construct or enhance a neighborhood and/or community park facility, or a combination of the three. Under both Ordinances, developers of fifty units or less are only required to pay fees in-lieu of dedicating parkland. For project of 51 units or more, the City may choose land dedication over the payment of in-lieu fees.

There were a number of substantive revisions to the Ordinances in 1998. One of the more significant changes was to change the focus of these Ordinances from the collection of city-wide in-lieu fees to the dedication of land. Accordingly, the methodology of calculating in-lieu fees was revised so that in-lieu fees are based on the land value study performed by an outside appraiser using the 13 Multiple Listing Services (MLS) zones in San José.

A residential land value study has been performed each year to determine the appropriate square footage value of large parcels of raw land and/or lots in each of the 13 MLS zones. The study is based on available sales data of residential land in the City of San José and also recognizes the historical nature of the data and considers the market trends in each of the MLS zones. A table showing the cost per square foot of land in each MLS zone since 1997 is included in Attachment A, Figure A-2.

The current in-lieu fees became effective in January 2003 as a result of City Council action in June of 2002, setting the in-lieu fees at seventy percent (70%) of the values found in the 2001 Residential Land Value Study. This was done to phase in the large fee increases over a two year period to help mitigate the steep increase in land values between 1998 and 2002. The "dotcom" bust occurred later that year and the fees have never been adjusted to 100% of the current land values.

The 2005 Study indicated that the value of raw land in three MLS zones have remained constant from the 2001 Study, while land values in four zones have decreased and land value in six zones have increased. The greatest change in land value is associated with the Alviso sub-zone of the North San Jose MLS zone where the square foot value increased from \$15 to \$55. The four areas which decreased in value went down by the same amount - \$5 per square foot.

#### *Parkland Acreage in San Jose*

In September 2000, the City Council adopted the Greenprint for Parks and Community Facilities and Programs ("Greenprint"). The Greenprint is a 20 year strategic plan which provides a specific, community-supported action plan for the future of parks, community facilities, and

programs in San José. The Greenprint updated the City's prior strategic plan for parks and recreational facilities, "Leisure and Life 2000."

The Greenprint, as was the case in Leisure and Life 2000, confirmed the City's General Plan parkland goal of 3.5 acres of neighborhood and/or community serving parkland per 1,000 residents as stated in the General Plan. Currently, the City has approximately 1,108.5 acres of neighborhood serving park facilities which equals 1.2 acres /1000 population. When taking the recreational school ground into account, the ratio is increased to 2.87 acres/1000 population. In addition, the City has approximately 2.6 acres/1000 population of citywide and regional facilities; the General Plan goal is 7 acres/1,000 population.

In order to meet the parkland goals by the year 2020 using 3.5 acres per 1000, approximately 930 acres of neighborhood/community serving parklands/ recreational school grounds would need to be developed.

*Calculation of Parkland Obligation and Expenditures of In-Lieu Fees*

The acres of land to be dedicated by a developer is determined from the following calculation:

$$\text{(Units) X (PPH) X (0.003) = (Acres)}$$

- Units = Number of units in development, by housing type
- PPH = Persons per household based upon census numbers for each housing type
- 0.003 = Parkland requirement of 3 acres per 1000 residents
- Acres = required acres of undeveloped ("raw") land that need to be dedicated
- If multiple dwelling types exist, this calculation is performed for each type and the summed together

If it is determined that a developer will pay fees in-lieu of land dedication, then this fee is calculated as follows:

$$\text{(Acres) X (Land Values) = Fee}$$

- Acres = required acres of undeveloped ("raw") land that need to be dedicated, calculated as shown above
- Land Cost = price of land per acre, determined through annual land value study
- Fee = In-lieu fee to be paid by developer

For easy reference, the "per unit" fee for each housing type in each MLS zone has already been calculated by PRNS staff. This is included in Attachment A, Figures A-3 through A-6.

The developers of residential projects can take advantage of private recreational credits which would reduce the acres to be dedicated based upon the total square footage of the private recreational areas constructed in the development. The maximum amount of private recreational credits that can be received is 50% of a project's total parkland obligation. In order to be eligible

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for private recreation credits up to the cap, the developer must provide certain kinds of “active recreational” components, such as turf areas or tot lots, or dedicate public parkland to the City. This requirement was imposed in 1998 so that the private recreation elements receiving credit would provide some of the elements found in public parks.

Both ordinances require that the in-lieu fees be expended on neighborhood and community serving parks or the neighborhood community serving elements of regional parks that serve the residential project generating the fees. Typically, the City’s standards for expenditure of in-lieu fees are as follows as reflected in the Greenprint:

- Three-quarters of a mile radius for neighborhood parks;
- Two mile radius for community facilities.

#### *Performance to Date*

Since 1988, the City has acquired 135 acres through land dedication under the PDO and PIO. Thirty of the 135 acres have been developed as turnkey projects by developers. In comparison, the City has acquired approximately 21 acres of neighborhood/community parkland from other sources of funds. Collecting parkland fees set at 70% of 2001 land values significantly impedes the Department’s ability to acquire land outright for park development and adjusting the in-lieu fees to 100% of 2005 land values will provide more opportunities to purchase land.

Of the \$90.4 million dollars in in-lieu fees collected as of June 30, 2005, \$34.2 million has been expended since 1988 on projects. This includes City administrative and indirect project costs. The fund balance as of June 30, 2005, was \$56.2 million of which \$42.6 million was in committed funds (dedicated to projects) and \$12.9 million was in committed funds that were recommended for re-allocation (i.e. were allocated to projects that are completed or that do not now require additional funding). Uncommitted funds totaling \$745,000 were not committed within five years as required by the ordinances.

As of June 30, 2006, an additional \$12 million in fees has been collected. The majority of these fees have either been allocated to projects during the Fiscal Year 2006-2007 CIP Budget process, or will be proposed for allocation to projects during the Fiscal Year 2007-2008 CIP Budget process.

#### **ANALYSIS**

##### *Proposed Amendments to the Ordinance and Schedule of In-Lieu Fees and Credits*

Staff proposes that the in-lieu fees be increased to 100% of the 2005 Land Value Study as well as amendments to both ordinances and to the credit schedule. The proposed changes will expand the ability for the City to use in-lieu fees to enhance the parks system while permitting additional private recreational credits for such improvements as private garden plots, urban plazas and/or

private gardens open to the public, and dog park amenities. These facilities can appropriately be provided by the private sector in lieu of City resources.

These changes are described briefly below. Attachment A to this memorandum sets out an in-depth analysis of the alternatives related to the increases of the in-lieu fees. Attachment B outlines each of the proposals regarding amendments to the Ordinances and the Fees and Credits Resolution in greater detail.

#### A. In-Lieu Fees

Under the current Ordinances, residential developers are required to dedicate land, pay a parkland fee in-lieu of dedication, or both, for neighborhood/community park or neighborhood/community serving elements within regional parks. Alternatively, a developer may satisfy the requirements of the Ordinances by entering into a parkland agreement for the construction of neighborhood and/or community park improvements. Developers may be eligible for credits depending on the type of private recreational improvements that are included in the housing development. The schedule of credits is also included in the Fees and Credits Resolution. All in-lieu fees are deposited in the Park Trust Fund (Fund 375 of the Capital Budget).

Staff is recommending that the in-lieu fees be adjusted to 100% of the 2005 land values from the current level of 70% of the 2001 land values. Alternatives to this recommendation are identified below:

- Alternative #1: In-lieu fees remain at 70% of 2001 land values (this is the “no change” alternative)
- Alternative #2: In-lieu fees are adjusted to 70% of 2005 land values
- Alternative #3: In-lieu fees are adjusted to 85% of 2005 land values

The recommended alternative will allow the City to more aggressively pursue parkland acquisition opportunities, as opposed to waiting until fees generated from multiple residential projects are collected before being able to fund the purchase of new parkland serving the project.

It should be noted that all of the above alternatives assume that the fees will, at a minimum, be adjusted to reflect the 2000 census data per household by housing type. The 2000 Census data regarding population per household type was not available until Fall of 2002. As discussed above, the number of persons per household type is used to calculate the in-lieu fees. As the in-lieu fees have not been adjusted since June 2002, the current census data has not been incorporated. As described in Attachment B, the use of the updated census data shows that the population per household type has increased in three of the four unit types. Accordingly, using this census data will increase the in-lieu fees for three of the housing types.

Further details on the four alternatives is presented in Attachment A. Staff has received support for using 100% of 2005 land values from the Strong Neighborhoods Project Advisory Committee (SNI PAC), the Parks and Recreation Commission (PRC), the Planning Commission, the Housing Advisory Commission (HAC) and CalSJ. CalSJ is a group comprised of several neighborhood associations throughout the City. Alternative #1 is supported by the Home Builders Association of Northern California (HBANC).

#### B. Proposed New Credits for Private Recreation

Staff is recommending a series of changes to the Fees and Credits Resolution that will expand the range of private recreational credits that developers may obtain for housing projects eligible for credits.

These additional elements are discussed in Attachment B and summarized below:

- Private dog amenities at least 300 square feet or more in size;
- Private garden plots at least 100 square feet or more in size;
- Private urban plaza areas and/or public garden spaces of 900 square feet or more that are contiguous to a public right-of-way and open to the public at least 360 days per year during daylight hours;
- Exclude developments of 5 or more floors from the private recreational credit requirements to provide active recreational elements. Under one of the recommendations in Attachment B, the first 2,500 units in the Downtown Core Area would be excluded from receiving this credit.

The Greenprint identified the need to provide additional gathering spaces in the City as the number one community priority. The proposed changes to the "Active Elements" of the private recreation credits will promote such spaces in new development.

#### C. Proposed Changes to the Ordinances

Staff proposed that both Ordinances be amended so that in-lieu fees may be expended upon and developers may receive credit for "recreational facilities" in addition to neighborhood and community serving parks and neighborhood and community serving elements of regional parks. The proposed amendments would permit the expenditure of in-lieu fees on trail improvements. Additionally, a developer would be eligible to receive credit against the parkland obligation for land dedicated to the City for trail purposes. The land dedicated to the City would be required to meet certain requirements as outlined in Attachment B, page B-13. The square footage of the land dedicated for the trail would be counted toward the recreational credits in the same way that the square footage of dedicated parkland is calculated. This would also allow the City to spend



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in-lieu fees on projects on school grounds, as long as a joint use agreement with the school district is executed.

Additionally, staff is recommending that the City give developers credit against their parkland obligation for the following public improvements:

- Costs associated with completing the proposed City Trail System;
- Land and/or construction costs associated with the development of new community gardens;
- Up to a fifty percent (50%) credit for dedication of public land that is used for multi-purpose stormwater detention areas that provide a recreational benefit when long term compatibility of use can be ensured and ongoing maintenance funding is secured.

The incorporation of stormwater treatment and detention areas on public parklands may provide additional recreational lands, and will improve stormwater quality, and help prevent erosion in the City's creeks and rivers.

Furthermore, the State Department of Parks and Recreation identified walking as the number one recreational active pursuit in the State. Therefore, granting credit for trail dedication and construction (and allowing in-lieu fees to be spent on trail acquisition and construction) will provide an incentive to expand this recreational opportunity throughout the City.

#### D. Downtown Core In-Lieu Fee Discount

Staff is recommending the following proposal for residential developments of 12 stories or more in the Downtown Core Area, as defined in the City's General Plan, until the 2500<sup>th</sup> residential unit receives its building permit:

- 1) Set in-lieu fees in the Downtown Core Area at 50% of the in-lieu fees based upon the most recent land value study;
- 2) Delay the in-lieu payments due until Final Inspection for Certificate of Occupancy is scheduled;
- 3) No private recreation credits will be granted to projects subject to the 50% reduction credit.

Once the 2500 unit count is reached, projects of 12 stories or more will no longer be eligible for the above reduction credit and will return to the fee structure in place when their fees are paid and they will be eligible for private recreation credits. The unit count (to get to 2500) will begin once the ordinance changes are in effect.

The Downtown Core Area under the PDO/PIO and per the General Plan is bounded by Coleman Avenue/Julian Street/St. James Street to the north, 4th Street and Civic Plaza to the east (Civic Plaza area is bounded by East St. John Street to the north, 7th Street to the east and San Fernando

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Street to the south), State Route 280 to the south, and White Street/Stockton Avenue/Southern Pacific Railroad tracks to the west.

Based upon the projected units to be constructed in the Downtown Core Area over the next 5 years, staff anticipates approximately \$50 million in in-lieu fees, land dedication, or park improvements in the Downtown area based upon the 100% of 2005 land value fees for anticipated projects. With this discount, staff anticipates approximately \$30 million to be collected over this same time period.

Residential development in the Downtown Core Area will play a major role in the long range revitalization of the downtown area as a cultural and recreational hub for the City's night-life. The difference between a suburban community and a great city can be distinguished by the presence of a vital downtown. In addition, these projects cannot be phased like typical subdivision projects; therefore the delay of the in-lieu payment can be justified.

Further detail regarding this proposal is included in Attachment B, pages B-5 through B-7 and in the letter from the Downtown Association in Attachment C.

#### *Timing of Fee and Ordinance Changes*

Below is the anticipated timing to implement the Fees and Charges Resolution and changes to the Ordinances following Council direction on October 24, 2006:

- December 5, 2006 – Return to Council with the revised Ordinance and Fee Resolution
- December 12, 2006 – 2<sup>nd</sup> Reading of Ordinance (Adoption of Ordinance)
- February 10, 2007 – Ordinance and Fee and Credits Resolution become effective (60 days following the 2<sup>nd</sup> reading)

Projects with an approved Plan Development Permit (PDP); Conditional Use Permit (CUP), Site Development Permit (SDP), or Tentative Map (Map) on or before the date six months following the adoption of the ordinance (2<sup>nd</sup> reading) or July 1, 2007; whichever is the later date:

- These projects will be “grandfathered” under the current fee resolution. This means that the developer will be subject to both the fees and credits specified in the prior Fees and Credits Resolution and will not be allowed to obtain additional private recreation credits or credits for stormwater detention. If desired, the developer can decide to pay their fees under the new fee resolution.<sup>2</sup>
- These projects will have until January 31, 2009, to pay their in-lieu fees in order to be subject to the current Fees and Credits Resolution. Otherwise they will be subject to the Fees and Credits Resolution in effect at the time they pay their fees.

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<sup>2</sup> If the “Downtown 50% Reduction” is approved by Council, the fees for buildings of 12 stories or more in the Downtown Core Area will be reduced from the proposed in-lieu schedule. Therefore, staff is recommending that developers be provided the flexibility to utilize the new fees and credits once these become effective.

Projects that are unable to get approval of a PDP, CUP, SDP or Tentative Map within six months after the adoption of the ordinance by City Council (or July 1, 2007, whichever is the later date) will be subject to the Fees and Credits Resolution in effect at the time of payment of their fees.

Moving forward in future years, staff is proposing that the in-lieu fees be adjusted annually on February 1<sup>st</sup> of each year based upon an approved Fees & Charges Report, which will be presented to Council in the preceding June. Prior to final approval by Council of the Fees & Charges Report, staff will agendaize the proposed annual parkland fee adjustments for review by the Parks and Recreation Commission and the Building Strong Neighborhoods Committee. Developers will then be subject to the fees and credits in effect at the time of payment. Details regarding this process are described in Attachment B, Page B-10.

#### *Other Significant Issues*

A number of significant issues have been discussed and received from stakeholders over the past few months including:

- Staff should update the Greenprint prior to adjusting the in-lieu fees
- Staff should create a park maintenance plan prior to adjusting the in-lieu fees
- How does the sunseting of the voucher program impact the parkland available for low-income households?
- How will the City maintain the land to be dedicated for stormwater purposes?
- Since the Santa Clara Valley Water District (SCVWD) owns much of the land upon which our trails are constructed, what are the potential downfalls of spending park trust funds on trails?

Staff's response to these issues are discussed below:

#### Greenprint

In September 2000, the City Council adopted the Greenprint for Parks and Community Facilities and Programs ("Greenprint"). The Greenprint is a strategic plan which provides a specific, community-supported action plan for the future of parks, community facilities, and programs in San José. Since the publication of the Greenprint, over 300 projects have been completed. The current plan for implementing CIP projects over the next 5 years is presented in the Adopted 2007-2011 Capital Improvement Program. It is important to update the Greenprint to reflect the completion of these projects and provide a revised action plan based upon forecasted revenues over the next several years.

The Greenprint update is currently underway and consultant services will be retained in early 2007 to conduct community outreach, develop a report card on how well the Greenprint has been implemented and what remains to be implemented, incorporate new areas of planned

development in our City (Coyote Valley, North First St., Evergreen - East Hills), as well as discussions on sustainable maintenance practices, asset management, stormwater detention, Green building practices, and strategies on land banking for future development.

An option has been proposed to wait until the Greenprint update has been completed to adjust the in-lieu fees. Updating the Greenprint and aligning the parkland fees to a more current land valuation study can occur independently of each other and it is not necessary to update the Greenprint first. Due to the ever increasing value of land which coincides with the ever decreasing availability of land, it is critical that the fee schedule be updated as soon as possible.

### Park Maintenance

After five straight years of declining resources coupled with increasing park inventory, parks maintenance is at a low point. Maintenance funding is currently provided at an average annual value of \$9,000 per developed acre, which is well below the needed amount of \$15,000 per developed acre of parkland.

In 2005-06, total maintenance staff resources dropped 11.8% from the prior year resulting in the lowest level of neighborhood parks maintenance staff since 1998-99 when the number of developed park acreage was far less than it is today. For the first time in 15 years, parks are not maintained or serviced seven days a week. Regional parks receive six days/week maintenance and neighborhood parks receive anywhere from one to five days of maintenance per week depending on usage. Litter remains in parks longer, trash pick-up is less often and mowing now occurs on a bi-weekly basis. Park restrooms, however, are kept open seven days a week.

The Department has a plan to improve maintenance, which includes:

- Continue working with the City Administration to raise the importance and urgency of restoring park maintenance funds;
- Fill vacant positions;
- Upgrade the turf mowing fleet by acquiring new, more efficient, mowers;
- Fill the new positions that were added for new developed park acreage;
- Move forward with efficiencies and new operations such as reducing unnecessary turf, designing maintenance friendly parks, and installing artificial turf surfaces;
- Seeking new equipment to improve efficiency;
- Partnerships with the private sector to assist with certain park maintenance tasks;
- Development of an asset management system to guide future capital investments;
- Directing more funds towards repair and renovation;
- Working with the subcommittee of the Parks and Recreation and Planning Commissions to research alternate funding sources for parks maintenance.

An option has been proposed to wait until maintenance issues have been resolved prior to adjusting the in-lieu fees. This is not necessary as these items can proceed on parallel paths and

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the maintenance issues do not need to be resolved before proceeding with adjustment of the in-lieu fees. As stated above, in light of increasing land values and decreasing availability of land for parks, it is critical that the fee schedule be updated as soon as possible.

#### Low-Income Voucher Program

Prior to 1998, housing restricted to occupancy by lower-income households was exempt from the PDO/PIO. In connection with the amendments in 1998 to the PDO and PIO, developers of low-income housing were subject to the Ordinances. However, they were able to satisfy their parkland obligation by presenting a voucher issued by the Housing Department or the San Jose Redevelopment Agency (SJRA). The voucher represented that the SJRA would pay the park in-lieu fee on behalf of the developer to the City. On December 31, 2005, the Low-Income Voucher Program associated with the PIO and the PDO ended and the exemption for such units was reinstated on January 1, 2006 (so the units are currently exempt).

From August 16, 1998 to January 1, 2006, the SJRA has paid approximately \$21.5 million in voucher payments to the City for 43 projects. PRNS and the SJRA are reconciling the amount due for the remaining voucher payments for low, very and extremely low-income units not yet collected from the Agency. The SJRA has budgeted the remaining uncollected fees in their FY 07/08 and FY 08/09 budgets.

The current staff recommendation is to keep the low-income exemption in place, while recognizing that the SJRA voucher program no longer exists. This is consistent with the recommendations of the Planning Commission and the Housing Advisory Commission. PRNS staff will work with the Housing Department and SJRA staff to continue to focus attention on areas where exempt low-income housing developments are forthcoming and look for opportunities to ensure adequate parkland is being provided through other funding sources such as grants or the Construction and Conveyance Funds.

#### Stormwater Detention Facilities

In October 2001, the Regional Water Quality Control Board (RWQCB) issued a revised National Pollutant Discharge Elimination System (NPDES) permit (Order No. 01-119) and on July 20, 2005 the Permit was further amended by the RWQCB (Order No. R2-2005-0035). Those revisions amended provision C.3 of the Permit and established new requirements for control of runoff from development projects—both public and private— through the implementation of stormwater control measures using specific sizing requirements to: (1) minimize the discharge of pollutants from impervious (e.g. paved) surfaces; and (2) minimize the impacts of increased stormwater runoff flows and velocities on local creeks which can result in creek erosion.

City Council Policy 6-29 entitled Post-Construction Urban Runoff Management and Policy 8-14 entitled Post-Construction Hydromodification Management are the City's primary mechanisms for implementing the new and redevelopment provisions of the Santa Clara Valley watershed-wide Permit. As required by the Permit, Policy 6-29 establishes requirements for the installation

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of stormwater treatment controls, such as detention/retention structures, infiltration basins, and vegetated swales in projects creating, replacing or expanding 10,000 square feet or more of impervious surface. Additionally, Policy 8-14 established requirements for the installation of hydromodification controls such as detention and retention ponds for projects that increase surface runoff.

Stormwater treatment and hydromodification controls can require significant allocations of land in any given development project; however, some stormwater treatment and hydromodification controls measures such as detention basins, can be well suited for recreational use during the dry season and between storms. Other cities such as Santa Barbara and Chicago allow joint stormwater and recreational facilities, provided the facility is designed and maintained appropriately to allow both functions. By allowing partial PDO/PIO credits for stormwater facilities that are also designed to be of public recreational value when they are not actively being used for stormwater treatment and detention, the City can increase its inventory of neighborhood and community serving parkland, improve water quality, and prevent erosion in the City's creeks and rivers. However, the need to maintain the functionality of a facility for stormwater treatment and detention purposes imposes design and maintenance constraints that would not otherwise apply to a recreational facility. Staff will need to evaluate each proposed dual use purpose facility to ensure long-term compatibility of the uses and that an appropriate funding mechanism is in place to address the ongoing maintenance needs of publicly owned dual use facilities. Staff's recommendation proposes that dual use credit for public facilities only be given when long term compatibility of use can be ensured and ongoing maintenance funding secured.

#### Trails/SCVWD Land

The use of PDO/PIO funds for trail development aligns well with the development community's aspirations to build desirable neighborhoods. The City's plan for a distributed network of 30 trail routes, providing over 100 miles of recreational access will make trails available to most existing and developing neighborhoods.

A large percentage of trail projects are constructed on land owned by the Santa Clara Valley Water District (SCVWD). The SCVWD staff has been clear that the SCVWD does not want to enter into any long term use agreements for these locations due to the possibilities of future flood control work impacting the trail network. City staff works very closely with SCVWD staff to ensure that new trail construction is not located in areas with a high possibility of near term flood control work. However, the possibility remains that the investment of PDO/PIO fees in a trail project on SCVWD land could be short term, if the District removes the trail as a result of a future project. To minimize the possibility of this occurring, City staff will continue to work very closely with the SCVWD staff to ensure that future trail projects are constructed in areas which are not anticipated to be affected by near term flood control work.

### *Conclusion*

The PDO and PIO are critical tools to assure logical growth and development of the City's neighborhood and community park facilities in response to increased populations generated by new development.

The proposed ordinance and fee and credit resolution changes should further reduce the impacts new residents have on existing park and recreation facilities by providing new facilities to the neighborhoods impacted by the increased density. The desired outcomes of proposed amendments and language modifications include:

1. Greater latitude for how funds may be expended and encourage greater creativity in developing recreational amenities,
2. Ability to respond to changing or evolving City Council priorities, and
3. Reduced impacts that the new residents have on existing parks and recreation facilities.

### **POLICY ALTERNATIVES**

*Alternative # 1:* Postpone ordinance changes and/or in-lieu fee adjustment until after the Greenprint update has been completed and other items have been resolved such as a parks utilization study, annual workplan and parks maintenance study.

**Pros:** This would allow the City more time to update its current recreational needs and consider the impacts of the in-lieu fee adjustment prior to implementing any changes.

**Cons:** By further postponing the implementation of these recommendations, the City will be missing out on opportunities to acquire and develop parkland as the fees are currently outdated. In addition, the development community will not be able to take advantage of the increased flexibility provided by the language amendments, especially regarding private recreation credits and stormwater mitigation areas.

**Reason for not recommending:** PDO and PIO in-lieu fees can only be used on the acquisition and development of new parks and the renovation of existing neighborhood/community parks or neighborhood/community elements of regional parks that will serve the housing projects generating the fees. Council action may allow the use of these funds on additional recreational facilities like trails. However, these funds cannot be used for general maintenance of the parks and recreational system. PRNS has performed extensive public outreach and analysis of the impacts of the proposed changes and does not anticipate that any new significant issues will be brought forward by extending the time period for this decision.

Attachments A and B provide a number of additional alternatives to each recommendation so these are not discussed in further detail in this section. In summary, these alternatives include

- Use the 2000 federal census data for household size to calculate the in-lieu fees and land dedication requirements under both ordinances;
- Base the in-lieu fees on the current land value study;
- Provide additional elements eligible for private recreation credit;
- Add additional eligible uses of park trust funds collected for trails, community gardens and/or other recreational facilities; and
- Allow residential projects with a permit or tentative map approval to be grandfathered under the current fee structure for a period of time.

**Alternative #2:** The Home Builders Association of Northern California (HBANC) has proposed to pay all parkland in-lieu fees at the close of escrow for units that are for sale, or at the Certificate of Occupancy stage for rental units, rather than the current practice of payment due at the final map stage or when a building permit is issued.

**Pros:** This would allow the development community to have more flexibility in the cash flow financing for their project. Particularly in the case of high rise residential development where the construction is not staged in phases, as in sub-divided developments. Given the speculative nature of high rise residential development delaying payment of parkland fees would help with obtaining the initial project financing and cash flow.

**Cons:** Further postponing receipt of parkland fees citywide will perpetuate the gap between the time residential units are built and inhabited to when the park or recreational amenity is constructed and open to serve the new population. New residents moving in will have to wait longer before the new park or recreational facility is available for their use. Costs of improvements will grow during the fee deferral resulting in less improvements. In addition, the administrative tracking of this change in process will be cumbersome, time intensive, and will require additional resources to process effectively.

**Reason for not recommending:** Staff is not recommending this alternative because of the inefficiencies it would create:

- Significant changes would need to be made to existing automated processes in PRNS and Planning, Building & Code Enforcement Department in order to track payment citywide of all residential development projects several years after construction has commenced;
- Delay to new residents of the housing development in receiving their park or recreational amenity;
- Increased staff resources in PRNS and PBCE to track and administer the payments, correlated to use of funds, and any reconciliation needed;
- PRNS would not have the financial resources to move quickly to take advantage of land opportunities because payment would be delayed for an unknown period of time.



**PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This project meets criteria number 3. Following is a summary of the outreach efforts that have occurred since the July 2006 meeting of the City Council.

The proposed changes to the PDO/PIO and associated in-lieu fees adjustments were discussed in detail at each of these meetings:

1. July 19<sup>th</sup> public forum as part of the Parks and Recreation Commission meeting;
2. August 2<sup>nd</sup> public forum as part of the Parks and Recreation Commission meeting;
3. August 9<sup>th</sup> joint study session between the Parks and Recreation Commission and Planning Commission;
4. August 10<sup>th</sup> presentation to the Housing Advisory Commission;
5. August 23<sup>rd</sup> presentation to the SNI Project Advisory Committee;
6. August 28<sup>th</sup> meeting with the Citizens for a Livable San Jose;
7. August 29<sup>th</sup> meeting with the Coalition for Jobs Now;
8. September 6<sup>th</sup> presentation to the Parks and Recreation Commission;
9. September 13<sup>th</sup> presentation to the Planning Commission;
10. September 14<sup>th</sup> presentation to the Housing Advisory Commission;
11. September 18<sup>th</sup> presentation to the Building Strong Neighborhoods Committee
12. September 27<sup>th</sup> presentation to the SNI Project Advisory Committee;
13. October 4<sup>th</sup> meeting with Home Builders Association of Northern California
14. October 4<sup>th</sup> presentation to the Parks and Recreation Commission.

Notices of the public forums were published in the San Jose Mercury News. Staff has maintained an email list of meeting attendees and provided email updates when the item is to be discussed. In addition, a number of internal stakeholder meetings were held by PRNS staff to

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inform other City staff from various departments of the recommended changes and to receive their input.

### **COORDINATION**

This memorandum has been coordinated with the City Manager's Office, the Department of Public Works, the Department of Environmental Services, the City Attorney's Office, the Housing Department and the Redevelopment Agency.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council approved Budget Strategy, Economic Recovery section, in that it will help to stimulate construction spending in our local economy.

### **COST SUMMARY/IMPLICATIONS**

In-lieu fees are an option for not dedicating parkland to the City under the PDO and PIO. Collected in-lieu fees are deposited in the Park Trust Fund. This fund currently provides the City with a dedicated account to help underwrite the cost of acquiring, developing and/or renovating neighborhood and/or community park facilities. The proposed changes would allow the PDO and PIO fees to fund the cost of acquiring, developing, and/or renovating neighborhood and community-serving recreational facilities and a more diverse set of park improvements including trails, community gardens, and community centers.

### **BUDGET REFERENCE**

The collected PDO and PIO in-lieu fees are deposited into the Park Trust Fund (Fund 375) as shown on page V-615 of the 2006-2007 Adopted Capital Budget – 2007-2011 Capital Improvement Program (CIP). The Council-approved methodology for allocation of these fees is to annually budget only actual receipts, since it is not possible to project accurately when developers will pay the in-lieu fees. Expenditures are not geographically limited by council district boundaries but are subject to nexus requirements set out in the ordinances.

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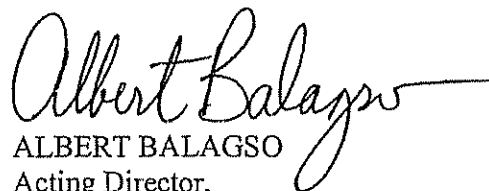
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**CEQA**

CEQA: Resolution No. 65459



ALBERT BALAGSO  
Acting Director,  
Parks, Recreation and Neighborhood  
Services Department



JOSEPH HORWEDEL  
Acting Director  
Planning, Building & Code  
Enforcement Department

For questions please contact JULIE MARK, DEPUTY DIRECTOR, PARKS, RECREATION  
AND NEIGHBORHOOD SERVICES DEPARTMENT, at 535-3582.

Attachments

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**Attachment A:**  
**Alternatives for in-lieu fee adjustments**

## ***Attachment A: Alternatives for in-lieu fee adjustments***

### ***Parkland Dedication and Park Impact Ordinance Proposed Changes and associated fee resolution***

Staff is proposing that the in-lieu fees be adjusted to 100% of the 2005 land values from the current level of 70% of the 2001 land values. Alternatives to this recommendation are identified below:

- Alternative #1: Fees remain at 70% of 2001 land values (“do nothing” alternative)
- Alternative #2: Adjust fees to 70% of 2005 land values
- Alternative #3: Adjust fees to 85% of 2005 land values

The recommended alternative will align the in-lieu park fees with the current price of land acquisition and provide more opportunities to purchase parkland in San José. In addition, staff has received support for 100% of 2005 land values from the following commissions and organizations:

- City of San José Parks and Recreation Commission
- City of San José Planning Commission
- City of San José Housing Advisory Commission
- City of San José Strong Neighborhoods Initiative Project Advisory Committee (SNI PAC)
- CalSJ – Citizens for a Livable San Jose (community based organization)

Staff has received support for Alternative #1 from the following organization:

- Home Builders Association of Northern California (HBANC).

The letters of support received to date for each of these alternatives are included in Attachment C. Staff anticipates that the remaining commission letters will be forthcoming to council as prior to the Council meeting.

The following additional information is provided in this Attachment to provide support for the Council’s decision making process:

- In-lieu fee tables under each scenario
- Analysis of the 2005-2006 Cost of Development Survey

**In-lieu fee tables under each scenario**

The following tables are included as Figures A-1 through A-6:

- Figure A-1: Map showing Multiple Listings Service Zones
- Figure A-2: Table of average land values from 1999 through 2005
- Figure A-3: Alternative #1: Fees remain at 70% of 2001 land values
- Figure A-4: Alternative #2: Adjust fees to 70% of 2005 land values
- Figure A-5: Alternative #3: Adjust fees to 85% of 2005 land values
- Figure A-6: Staff Recommendation: Adjust fees to 100% of 2005 land values

A summary of the highest, lowest and average in-lieu fee under each of the four alternatives for a Single Family Detached unit: is included in the below table:

Alternative	Lowest Fee	Highest Fee	Average Fee
Alternative #1: Fees remain at 70% of 2001 land values	\$4,750	\$15,850	\$12,692
Alternative #2: Adjust fees to 70% of 2005 land values	\$9,500	\$22,200	\$14,996
Alternative #3: Adjust fees to 85% of 2005 land values	\$11,550	\$27,000	\$18,123
Staff Recommendation: Adjust fees to 100% of 2005 land values	\$13,600	\$31,750	\$21,454

In Figure A-2, the land values of the 13 MLS zones used to determine in-lieu fees have increased in six areas, three areas have remained the same, and four areas have decreased slightly comparing 2001 values to 2005 values. The most dramatic change in land value is in the Alviso area which has increased from \$15 per square foot in 2001 to \$55 per square foot in 2005. In most of the MLS zones, the disparity between the current fees and the proposed fees is a result of the current fees being set at 70% of the 2001 land values and the proposed fees to be set at 100% of the 2005 land values.

**Analysis of the 2005-2006 Cost of Development Survey**

*Third Annual South Bay Area Cost of Development Survey 2005-2006*

The HBANC, in collaboration with the City's Planning Department, recently completed the Third Annual South Bay Area Cost of Development Survey 2005-2006. The intent of this survey is to summarize the key fees and costs incurred during the development and construction process of a South Bay home, condominium, or commercial building. The Cities of Fremont, Gilroy, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale participated in the survey. The

fees/costs were broken down into four key categories: (1) Entitlement fees; (2) Construction fees; (3) Impact/Capacity fees; and (4) Development Taxes. PDO/PIO impact fees were captured in the “impact/capacity fees” category.

The impact of adjusting the in-lieu PDO/PIO fees for the City of San José for the representative single family development project in this survey is discussed below.

### Analysis of Parkland Fees across cities for Single Family Developments

City	Per Unit (assume 50 units)
Mountain View	\$22,680
Fremont	\$18,446
San Jose – Current Fee, 70% of 2001 land value	\$12,550
Sunnyvale	\$10,209
Palo Alto	\$8,670
Morgan Hill	\$5,640
Gilroy	not available
Santa Clara	not available

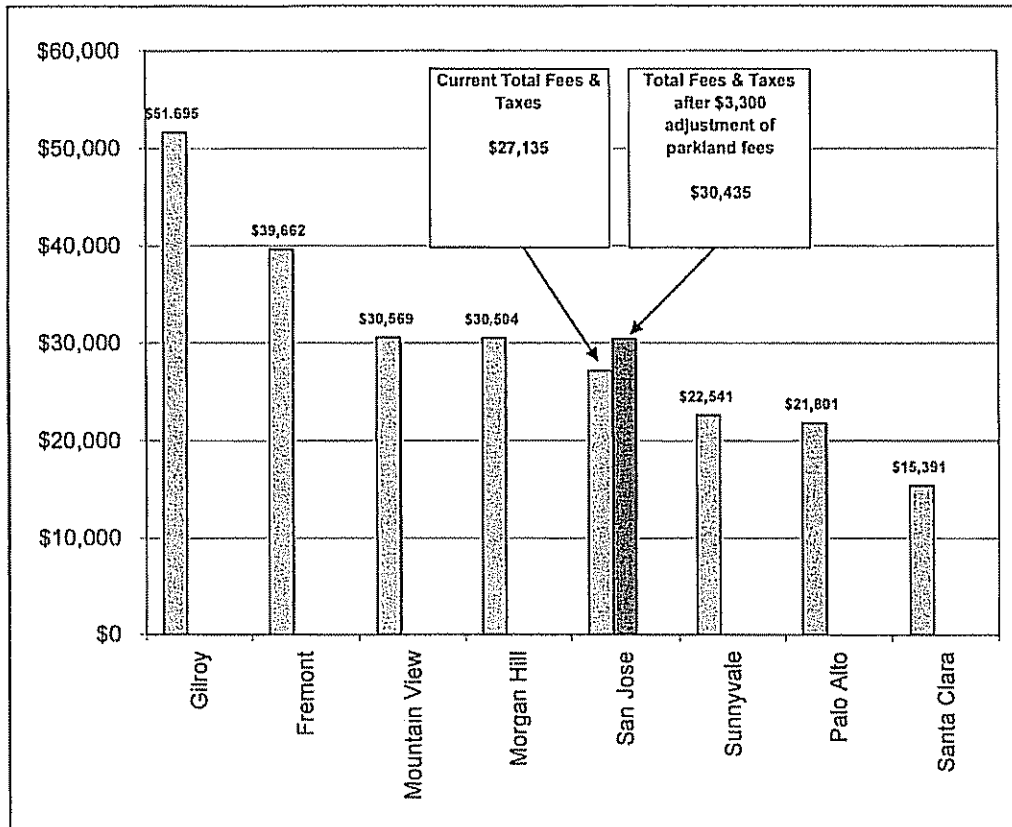
The fee used in the above table is the current fee for the “Blossom Valley” MLS area which was used as the representative fee for the City of San José in the Cost of Development Survey. As indicated in the above table, San José ranks 3<sup>rd</sup> highest of the six cities which reported parks fees in the study. The increase to 100% of 2005 land values in the Blossom Valley area would raise the parks fees from \$12,550 per unit to \$15,850 per unit. This would keep San José 3<sup>rd</sup> highest in the above analysis. If the average fee of \$21,454 for a single family development were used then San Jose would rise to second highest. The impact of the fee increases on overall costs of development is discussed below.

#### Single Family Residential Development

The survey indicates that development fees, impact/capacity fees and development taxes equate to \$27,135 per unit to develop a single family residential unit in San Jose. The survey indicated a range from \$52,000/unit (Gilroy) to \$15,000/unit (Santa Clara). As can be seen on the following chart, four cities are more expensive than San José and three are less expensive.



**Single Family Residential Development**  
*Total Taxes and Fees per unit in 2005-2006 Development Survey*



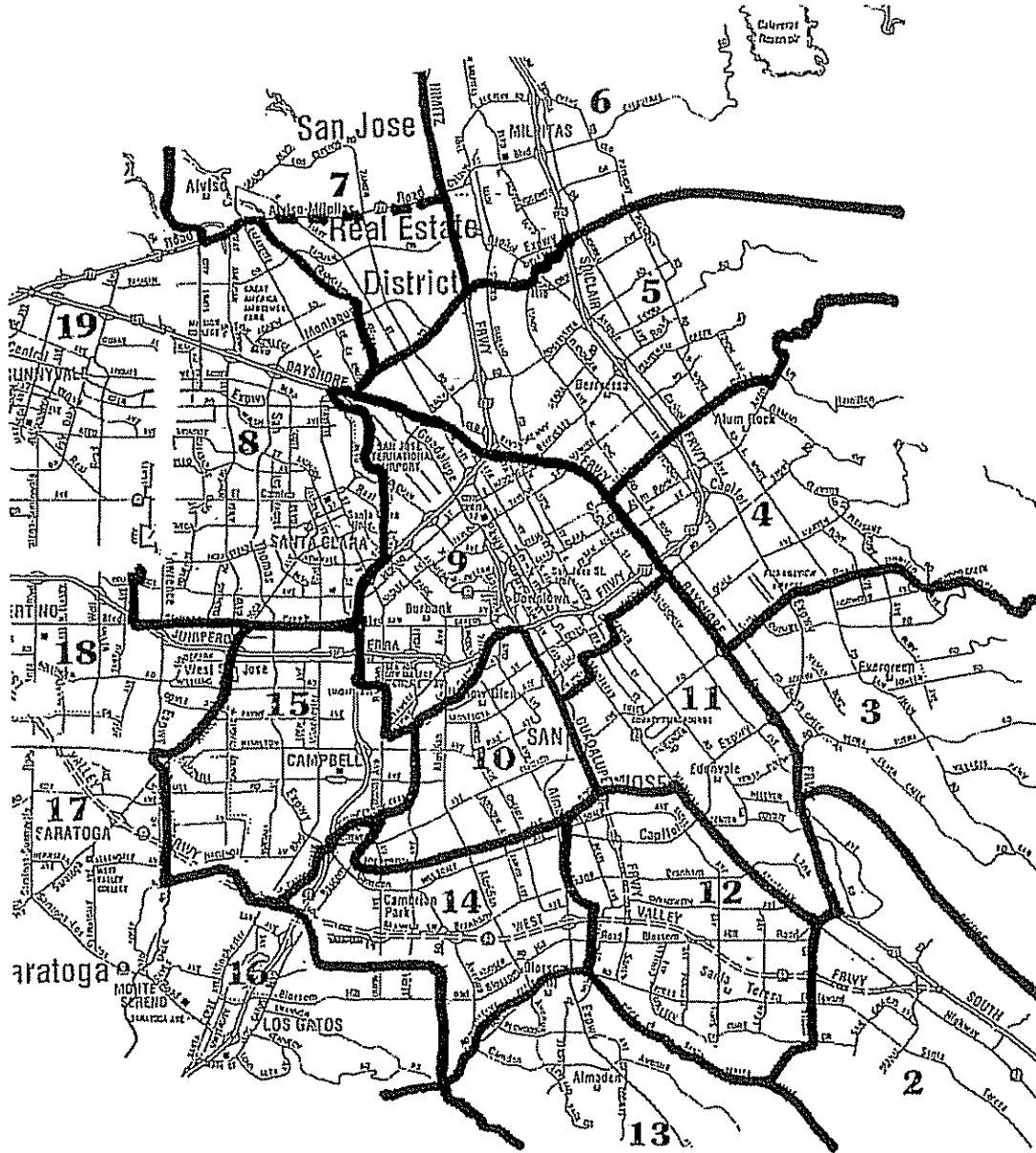
For City of San Jose fees, an in-lieu parkland fee of \$12,550 per unit was used in the Survey (Blossom Valley MLS Area). This feeds into the total current taxes and fees per unit for a single family residential development of \$27,135 as shown above. Under staff's recommendation, the per unit in-lieu fee in the Blossom Valley MLS Area would be adjusted from \$12,550 to \$15,850. This would adjust the total taxes and fees per unit for a single family residential development in the Blossom Valley MLS Area to \$30,435.

As can be seen from the above analysis, adjusting the in-lieu fees from the current level of 70% of 2001 land values to 100% of 2005 land values would not, by itself, have an impact on the ranking of the City of San Jose for the cost of developing a single family residential unit in the Blossom Valley MLS Area. San José would remain fifth out of the eight cities surveyed.

However, it is also important to note that the in-lieu fee adjustments vary per MLS areas and the City currently calculates fees for 13 different MLS areas. If the average in-lieu for a single family development of \$21,450 were used in the above analysis, San José would rank 3<sup>rd</sup> highest behind Gilroy and Fremont.

A similar result occurs when using the multi family residential project example with San Jose currently ranking sixth out of eight locations and moving to fourth highest out of eight under if in-lieu fees are adjusted to 100% of 2005 land values.

Figure A-1: MLS MAP



**PDO – PIO MAP**

- |                       |                     |                     |
|-----------------------|---------------------|---------------------|
| 2 – Santa Teresa      | 3 – Evergreen       | 4 – Alum Rock       |
| 5 – Berryessa         | 7 – Alviso          | 7 – North San Jose  |
| 9 – Downtown          | 10 – Willow Glen    | 11 – South San Jose |
| 12 – Blossom Valley   | 13 – Almaden Valley | 14 – Cambrian       |
| 15/18 – West San Jose |                     |                     |

**Figure A-2: Table of average land values from 1999 through 2005**

MLS ZONE	AREA COVERED	COST PER SQUARE FOOT 1997	COST PER SQUARE FOOT 1998*	COST PER SQUARE FOOT 1999*	COST PER SQUARE FOOT 2000*	COST PER SQUARE FOOT 2001	COST PER SQUARE FOOT 2002*	COST PER SQUARE FOOT 2003*	COST PER SQUARE FOOT 2004*	COST PER SQUARE FOOT 2005	TYPE OF CHANGE FROM 01 to 05
2	SANTA TERESA	\$12.00	\$12.00	\$15.00	\$25.00	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00	No Change
3	EVERGREEN	\$10.00	\$10.00	\$25.00	\$32.00	\$45.00	\$45.00	\$40.00	\$40.00	\$40.00	Down
4	ALUM ROCK	\$12.00	\$12.00	\$15.00	\$26.00	\$35.00	\$35.00	\$30.00	\$30.00	\$30.00	Down
5	BERRYESSA	\$18.00	\$15.00	\$20.00	\$30.00	\$40.00	\$40.00	\$40.00	\$45.00	\$40.00	No Change
7	ALVISO	\$8.00	\$8.00	\$10.00	\$12.00	\$15.00	\$20.00	\$25.00	\$40.00	\$55.00	Up
7	NORTH SAN JOSE	\$21.00	\$21.00	\$28.00	\$30.00	\$35.00	\$35.00	\$25.00	\$40.00	\$55.00	Up
9	DOWNTOWN	\$21.00	\$25.00	\$23.00	\$35.00	\$50.00	\$50.00	\$60.00	\$70.00	\$60.00	Up
10	WILLOW GLEN	\$21.00	\$21.00	\$30.00	\$35.00	\$50.00	\$50.00	\$50.00	\$50.00	\$70.00	Up
11	SOUTH SAN JOSE	\$12.00	\$10.00	\$14.00	\$25.00	\$35.00	\$35.00	\$35.00	\$35.00	\$45.00	Up
12	BLOSSOM VALLEY	\$15.00	\$16.00	\$18.00	\$28.00	\$40.00	\$40.00	\$40.00	\$35.00	\$35.00	Down
13	ALMADEN VALLEY	\$10.00	\$20.00	\$22.00	\$30.00	\$45.00	\$45.00	\$40.00	\$40.00	\$45.00	No Change
14	CAMBRIAN	\$18.00	\$16.00	\$20.00	\$30.00	\$45.00	\$45.00	\$40.00	\$35.00	\$40.00	Down
15/18	WEST SAN JOSE	\$21.00	\$21.00	\$23.00	\$38.00	\$50.00	\$50.00	\$50.00	\$65.00	\$65.00	Up

\* FEES WERE NOT ADJUSTED TO REFLECT THE LAND COSTS IN 1998, 1999, 2000, 2002, 2003 & 2004  
 Price Per Square Foot Numbers from the Annual Residential Land Values Study prepared by Diaz, Diaz & Boyd, Inc. for raw land

**Figure A-3: ALTERNATIVE #1: FEES REMAIN AT 70% OF 2001 LAND VALUES**

MLS ZONE	AREA COVERED	100% OF COST PER SQUARE FOOT 2001	70% OF COST PER SQUARE FOOT 2001	In-Lieu Fees set at 70% Of 2001 Land Values	FEE PER UNIT SINGLE FAMILY DETACHED 70% / 70%	FEE PER UNIT SINGLE FAMILY ATTACHED 70% / 70%	FEE PER UNIT MULTI-FAMILY 2-4 / BLD 70% / 70%	FEE PER UNIT MULTI-FAMILY 5+ / BID 70% / 70%	FEE PER UNIT SINGLE RESIDENTIAL OCCUPANCY (SRO) 70% / 70%
Number of Persons Per Unit - 1990/2000 Census Data					3.43/3.50	2.88/3.06	3.12/3.23	2.29/2.29	1.06/1.00
Number of Dwelling Units to create 1 Acre of Parkland				YR	97/96	115/109	107/104	145/146	315/336
2	SANTA TERESA	\$35.00	\$24.50	Current	\$11,000	\$9,300	\$9,950	\$7,350	\$3,350
				Proposed	\$11,100	\$9,800	\$10,250	\$7,300	\$3,150
3	EVERGREEN	\$45.00	\$31.50	Current	\$14,150	\$11,900	\$12,800	\$9,450	\$4,350
				Proposed	\$14,300	\$12,600	\$13,200	\$9,400	\$4,050
4	ALUM ROCK	\$35.00	\$24.50	Current	\$11,000	\$9,300	\$9,950	\$7,350	\$3,350
				Proposed	\$11,100	\$9,800	\$10,250	\$7,300	\$3,150
5	BERRYESSA	\$40.00	\$28.00	Current	\$12,550	\$10,600	\$11,400	\$8,400	\$3,850
				Proposed	\$12,700	\$11,200	\$11,700	\$8,350	\$3,600
7	ALVISO	\$15.00	\$10.50	Current	\$4,700	\$3,950	\$4,250	\$3,150	\$1,450
				Proposed	\$4,750	\$4,200	\$4,400	\$3,100	\$1,350
7	NORTH SAN JOSE	\$35.00	\$24.50	Current	\$11,000	\$9,300	\$9,950	\$7,350	\$3,350
				Proposed	\$11,100	\$9,800	\$10,250	\$7,300	\$3,150
9	DOWNTOWN	\$50.00	\$35.00	Current	\$15,700	\$13,250	\$14,250	\$10,500	\$4,850
				Proposed	\$15,850	\$14,000	\$14,650	\$10,450	\$4,550
10	WILLOW GLEN	\$50.00	\$35.00	Current	\$15,700	\$13,250	\$14,250	\$10,500	\$4,850
				Proposed	\$15,850	\$14,000	\$14,650	\$10,450	\$4,550
11	SOUTH SAN JOSE	\$35.00	\$24.50	Current	\$11,000	\$9,300	\$9,950	\$7,350	\$3,350
				Proposed	\$11,100	\$9,800	\$10,250	\$7,300	\$3,150
12	BLOSSOM VALLEY	\$40.00	\$28.00	Current	\$12,550	\$10,600	\$11,400	\$8,400	\$3,350
				Proposed	\$12,700	\$11,200	\$11,700	\$8,350	\$3,150
13	ALMADEN VALLEY	\$45.00	\$31.50	Current	\$14,150	\$11,900	\$12,800	\$9,450	\$4,350
				Proposed	\$14,300	\$12,600	\$13,200	\$9,400	\$4,050
14	CAMBRIAN	\$45.00	\$31.50	Current	\$14,150	\$11,900	\$12,800	\$9,450	\$4,350
				Proposed	\$14,300	\$12,600	\$13,200	\$9,400	\$4,050
15 & 18	WEST SAN JOSE	\$50.00	\$35.00	Current	\$15,700	\$13,250	\$14,250	\$10,500	\$4,850
				Proposed	\$15,850	\$14,000	\$14,650	\$10,450	\$4,550

Price Per Square Foot Numbers from the Annual Residential Land Values Study prepared by Diaz, Diaz & Boyd, Inc. multiplied by 0.70 (2001)

**Figure A-4: ALTERNATIVE #2: FEES SET AT 70% OF 2005 LAND VALUES**

MLS ZONE	AREA COVERED	70% OF COST PER SQUARE FOOT 2001	70% OF COST PER SQUARE FOOT 2005	CHANGE IN SQUARE FOOT VALUE BEING CHARGED BETWEEN 01 & 05	YR	70% OF COST PER SQUARE FOOT 2001	70% OF COST PER SQUARE FOOT 2005	FEES PER UNIT SINGLE FAMILY DETACHED 70% / 70%	FEES PER UNIT SINGLE FAMILY ATTACHED 70% / 70%	FEES PER UNIT MULTI-FAMILY 2-4/BLD 70% / 70%	FEES PER UNIT MULTI-FAMILY 5+/BLD 70% / 70%	FEES PER UNIT SINGLE RESIDENTIAL OCCUPANCY (SRO) 70% / 70%
	Number of Persons Per Unit - 1990/2000 Census Data											
	Number of Dwelling Units to create 1 Acre of Parkland											
2	SANTA TERESA	\$24.50	\$24.50	\$0.00	01	\$11,000	\$24.50	\$9,300	\$9,300	\$9,950	\$7,350	\$3,350
3	EVERGREEN	\$31.50	\$28.00	(\$3.50)	05	\$11,100	\$28.00	\$9,800	\$11,900	\$10,250	\$7,300	\$3,150
4	ALUM ROCK	\$24.50	\$21.00	(\$3.50)	01	\$14,150	\$21.00	\$11,900	\$11,200	\$11,700	\$8,350	\$4,350
5	BERRYESSA	\$28.00	\$28.00	\$0.00	05	\$12,700	\$28.00	\$9,300	\$8,400	\$9,950	\$6,250	\$2,700
7	ALVISO	\$10.50	\$38.50	\$28.00	01	\$12,550	\$38.50	\$10,600	\$10,600	\$11,400	\$8,400	\$3,850
7	NORTH SAN JOSE	\$24.50	\$38.50	\$14.00	05	\$12,700	\$38.50	\$11,200	\$11,200	\$11,700	\$8,350	\$3,600
9	DOWNTOWN	\$35.00	\$42.00	\$7.00	01	\$4,700	\$42.00	\$3,950	\$3,950	\$4,250	\$3,150	\$1,450
10	WILLOW GLEN	\$35.00	\$49.00	\$14.00	05	\$17,450	\$49.00	\$15,400	\$15,400	\$16,100	\$11,500	\$5,000
11	SOUTH SAN JOSE	\$24.50	\$31.50	\$7.00	01	\$11,000	\$31.50	\$9,300	\$9,300	\$9,950	\$7,350	\$3,350
12	BLOSSOM VALLEY	\$28.00	\$24.50	(\$3.50)	05	\$17,450	\$24.50	\$15,400	\$15,400	\$16,100	\$11,500	\$5,000
13	ALMADEN VALLEY	\$31.50	\$31.50	\$0.00	01	\$15,700	\$31.50	\$13,250	\$13,250	\$14,250	\$10,500	\$4,850
14	CAMBRIAN	\$31.50	\$28.00	(\$3.50)	05	\$19,050	\$28.00	\$16,750	\$16,750	\$17,600	\$12,500	\$5,450
15 & 18	WEST SAN JOSE	\$35.00	\$45.50	\$10.50	01	\$15,700	\$45.50	\$13,250	\$13,250	\$14,250	\$10,500	\$4,850
					05	\$20,400		\$17,950	\$17,950	\$18,850	\$13,400	\$5,850

Price Per Square Foot Numbers from the Annual Residential Land Values Study prepared by Diaz, Diaz & Boyd, Inc. multiplied by 0.70 (2001) or multiplied by 0.70 (2005)  
 At 100% of Land Value - Top Fee is in the Willow Glen Area at \$31,750 SFD and \$20,900 MF 5+

**Figure A-5: ALTERNATIVE #3: FEES SET AT 85% OF 2005 LAND VALUES**

MLS ZONE	AREA COVERED	70% OF COST PER SQUARE FOOT		85% OF COST PER SQUARE FOOT	CHANGE IN SQUARE FOOT VALUE BEING CHARGED BETWEEN 01 & 05	FEE PER UNIT							
		2001	2005			SINGLE FAMILY DETACHED	SINGLE FAMILY ATTACHED	MULTI-FAMILY 2-4/BLD	MULTI-FAMILY 5+/BLD	SINGLE RESIDENTIAL OCCUPANCY (SRO)			
Number of Persons Per Unit -- 1990/2000 Census Data													
Number of Dwelling Units to create 1 Acre of Parkland													
					YR								
2	SANTA TERESA	\$24.50	\$29.75	\$5.25	01	\$11,000	\$9,300	\$9,950	\$9,950	\$7,350	\$3,350		
					05	\$13,500	\$11,900	\$12,450	\$12,450	\$8,850	\$3,850		
3	EVERGREEN	\$31.50	\$34.00	\$2.50	01	\$14,150	\$11,900	\$12,800	\$12,800	\$9,450	\$4,350		
					05	\$15,400	\$13,600	\$14,250	\$14,250	\$10,150	\$4,400		
4	ALUM ROCK	\$24.50	\$25.50	\$1.00	01	\$11,000	\$9,300	\$9,950	\$9,950	\$7,350	\$3,350		
					05	\$11,550	\$10,200	\$10,650	\$10,650	\$7,600	\$3,300		
5	BERRYESSA	\$28.00	\$34.00	\$6.00	01	\$12,550	\$10,600	\$11,400	\$11,400	\$8,400	\$3,850		
					05	\$15,400	\$13,600	\$14,250	\$14,250	\$10,150	\$4,400		
7	ALVISO	\$10.50	\$46.75	\$36.25	01	\$4,700	\$3,950	\$4,250	\$4,250	\$3,150	\$1,450		
					05	\$21,200	\$18,650	\$19,550	\$19,550	\$13,950	\$6,050		
7	NORTH SAN JOSE	\$24.50	\$46.75	\$22.25	01	\$11,000	\$9,300	\$9,950	\$9,950	\$7,350	\$3,350		
					05	\$21,200	\$18,650	\$19,550	\$19,550	\$13,950	\$6,050		
9	DOWNTOWN	\$35.00	\$51.00	\$16.00	01	\$15,700	\$13,250	\$14,250	\$14,250	\$10,500	\$4,850		
					05	\$23,150	\$20,350	\$21,350	\$21,350	\$15,200	\$6,600		
10	WILLOW GLEN	\$35.00	\$59.50	\$24.50	01	\$15,700	\$13,250	\$14,250	\$14,250	\$10,500	\$4,850		
					05	\$27,000	\$23,750	\$24,900	\$24,900	\$17,750	\$7,700		
11	SOUTH SAN JOSE	\$24.50	\$38.25	\$13.75	01	\$10,300	\$9,300	\$9,950	\$9,950	\$7,500	\$3,350		
					05	\$17,350	\$15,300	\$16,000	\$16,000	\$11,400	\$4,950		
12	BLOSSOM VALLEY	\$28.00	\$29.75	\$1.75	01	\$12,550	\$10,600	\$11,400	\$11,400	\$8,400	\$3,850		
					05	\$13,500	\$11,900	\$12,450	\$12,450	\$8,850	\$3,850		
13	ALMADEN VALLEY	\$31.50	\$38.25	\$6.75	01	\$14,150	\$11,900	\$12,800	\$12,800	\$9,450	\$4,350		
					05	\$17,350	\$15,300	\$16,000	\$16,000	\$11,400	\$4,950		
14	CAMBRIAN	\$31.50	\$34.00	\$2.50	01	\$14,150	\$11,900	\$12,800	\$12,800	\$9,450	\$4,350		
					05	\$15,400	\$13,600	\$14,250	\$14,250	\$10,150	\$4,400		
15 & 18	WEST SAN JOSE	\$35.00	\$55.25	\$20.25	01	\$15,700	\$13,250	\$14,250	\$14,250	\$10,500	\$4,850		
					05	\$23,600	\$20,750	\$21,750	\$21,750	\$15,600	\$6,750		

Price Per Square Foot Numbers from the Annual Residential Land Values Study prepared by Diaz, Diaz & Boyd, Inc. multiplied by 0.70 (2001) or multiplied by 0.85 (2005)  
 At 100% of Land Value -- Top Fee is in the Willow Glen Area at \$31,750 SFD and \$20,900 MF 5+

**Figure A-6: Staff Recommendation: FEES SET AT 100% OF 2005 LAND VALUES**

MLS ZONE	AREA COVERED	70% OF COST PER SQUARE FOOT 2001	100% OF COST PER SQUARE FOOT 2005	CHANGE IN LAND VALUE BEING CHARGED BETWEEN 01 & 05	FEE PER UNIT SINGLE FAMILY DETACHED 70% / 100%	FEE PER UNIT SINGLE FAMILY ATTACHED 70% / 100%	FEE PER UNIT MULTI-FAMILY 2-4 70% / 100%	FEE PER UNIT MULTI-FAMILY 5+ 70% / 100%	FEE PER UNIT SINGLE RESIDENTIAL OCCUPANCY (SRO) 70% / 100%
	Number of Persons Per Unit - 1990/2000 Census Data								
	Number of Dwelling Units to create 1 Acre of Parkland			YR					
2	SANTA TERESA	\$24.50	\$35.00	01 05	\$11,000 \$15,850	\$9,300 \$14,000	\$9,950 \$14,650	\$7,350 \$10,450	\$3,350 \$4,550
3	EVERGREEN	\$31.50	\$40.00	01 05	\$14,150 \$18,150	\$11,900 \$16,000	\$12,800 \$16,750	\$9,450 \$11,900	\$4,350 \$5,200
4	ALUM ROCK	\$24.50	\$30.00	01 05	\$11,000 \$13,600	\$9,300 \$12,000	\$9,950 \$12,550	\$7,350 \$8,950	\$3,350 \$3,900
5	BERRYESSA	\$28.00	\$40.00	01 05	\$12,550 \$18,150	\$10,600 \$16,000	\$11,400 \$16,750	\$8,400 \$11,900	\$3,850 \$5,200
7	ALVISO	\$10.50	\$55.00	01 05	\$4,700 \$24,950	\$3,950 \$21,950	\$4,250 \$23,050	\$3,150 \$16,400	\$1,450 \$7,100
7	NORTH SAN JOSE	\$24.50	\$55.00	01 05	\$11,000 \$24,950	\$9,300 \$21,900	\$9,950 \$23,050	\$7,350 \$16,400	\$3,350 \$7,100
9	DOWNTOWN	\$35.00	\$60.00	01 05	\$15,700 \$27,200	\$13,250 \$24,000	\$14,250 \$25,100	\$10,500 \$17,900	\$4,850 \$7,800
10	WILLOW GLEN	\$35.00	\$70.00	01 05	\$15,700 \$31,750	\$13,250 \$27,950	\$14,250 \$29,300	\$10,500 \$20,900	\$4,850 \$9,950
11	SOUTH SAN JOSE	\$24.50	\$45.00	01 05	\$10,300 \$20,400	\$9,300 \$19,950	\$9,950 \$18,850	\$7,500 \$13,400	\$3,350 \$5,800
12	BLOSSOM VALLEY	\$28.00	\$35.00	01 05	\$12,550 \$15,850	\$10,600 \$14,000	\$11,400 \$14,650	\$8,400 \$10,450	\$3,850 \$4,550
13	ALMADEN VALLEY	\$31.50	\$45.00	01 05	\$14,150 \$20,400	\$11,900 \$19,950	\$12,800 \$18,850	\$9,450 \$13,400	\$4,350 \$5,800
14	CAMBRIAN	\$31.50	\$40.00	01 05	\$14,150 \$18,150	\$11,900 \$16,000	\$12,800 \$16,750	\$9,450 \$11,900	\$4,350 \$5,200
15 & 18	WEST SAN JOSE	\$35.00	\$65.00	01 05	\$15,700 \$29,500	\$13,250 \$25,950	\$14,250 \$27,200	\$10,500 \$19,400	\$4,850 \$8,400

Price Per Square Foot Numbers from the Annual Residential Land Values Study prepared by Diaz, Diaz & Boyd, Inc. multiplied by 0.70 (2001) or multiplied by 1.00 (2005)  
 At 100% of Land Value - Top Fee is in the Willow Glen Area at \$31,750 SFD and \$20,900 MF 5+

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**Attachment B:  
Base Recommendations**

***Attachment B:***

***Base Recommendations***

***Parkland Dedication and Park Impact Ordinance Proposed Changes and associated fee resolution***

This appendix includes a detailed description of staff's base recommendations as well as the alternatives which have been proposed. The information provided on each base recommendation includes:

- Details on staff recommendation;
- Position of stakeholders on recommendation;
- Discussion of potential alternatives, when applicable.

City Council may approve staff's base recommendations in part or in whole. In addition, City Council may recommend one of the proposed alternatives or a new alternative to staff's base recommendation. The base recommendations are summarized below. Please refer to the page number for additional information

	Page No.
1. Federal Census: Revise the Fees and Credits Resolution to include the 2000 federal census household sizes when calculating the the in-lieu fees under the PDO and PIO. ....	B-3
2. Annual Fee Adjustment: Direct staff to return to Council each year with adjustments to the in-lieu fees to match the latest land value study as part of the Fees & Charges approval process. ....	B-4
3. Downtown Core Area Buildings of 12 stories or more: Revise the Ordinance and Fees and Credits Resolution to implement the proposal regarding buildings of 12 stories or more until 2500 unit count is reached.....	B-5
4. Pipeline Project Program: Implement a six month grace period from the date of adoption of the Ordinance (or July 1, 2007, whichever is the later date) to allow housing projects to obtain an approved Plan Development Permit, Conditional Use Permit, Site Development Permit, or Tentative Map in order to be eligible to pay under the current in-lieu fee schedule until January 31, 2009. ....	B-8

## ***Attachment B: Base Recommendations***

### ***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

5. Future Projects: Future fees adjustments recommended by staff and approved as part of the regular Fees and Charges approval process by the City Council in June would take effect on February 1<sup>st</sup> of the following year. .... B-10
6. Low-Income Units: Continue the exemption of low-income, very-low income, and extremely low income units from the PDO & PIO..... B-11
7. Recreational Facilities: Revise the Ordinances to permit the expenditure of in-lieu fees upon “recreational facilities” in addition to neighborhood and community parks and to permit a developer to obtain credit for the dedication or construction of eligible recreational facilities..... B-12
8. Useable Parkland: Revise the ordinances to ensure dedicated land is useable for park purposes. .... B-13
9. Private Recreation: Revise the Fees and Credits Resolution to expand developer’s opportunities to receive private recreational credits under the PDO and PIO. .... B-14
10. Private Recreation: Revise the Fees and Credits Resolution to exempt housing projects over 5 stories from the active recreational element requirements in order to obtain private recreational credits..... B-16
11. Private Recreation: Revise the Ordinance to clarify that areas receiving credit for private recreation must be useable for recreational purposes..... B-17
12. Stormwater Detention: Revise the Fees and Credits Resolution to allow stormwater detention areas within privately owned and maintained projects to receive private recreational credits for dual-use areas, if such areas meet the private recreational criteria in 9 above..... B-18
13. Stormwater Detention: Revise the Ordinances to provide 50% credit for stormwater detention areas dedicated to the City for the dual purposes of public parklands and stormwater detention/filtering areas up to a maximum of 50% of the total land dedicated to the City..... B-19

## ***Attachment B: Base Recommendations***

***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

<b>Number:</b>	1	<b>Type of Change:</b>	Fees and Credits Resolution
<b>Brief Description of Staff Recommendation:</b>			
Federal Census: Revise the Fees and Credits Resolution to include the 2000 federal census household sizes when calculating the in-lieu fees under the PDO and PIO.			
<b>Discussion of Staff Recommendation:</b>			
<p>The PDO and PIO, consistent with the State's Quimby Act require that the most recent available federal census shall be used when determining the amount of land to be dedicated. Currently, the 1990 Census numbers are being used. The Fee Resolution needs to be updated to include the 2000 Census numbers as required by the PDO and PIO. There are no alternatives available.</p> <p><u>U.S. Census Housing Type and Percentage Increase</u></p> <ul style="list-style-type: none"> <li>• Single Family Detached: 2.04% (3.43-3.50)</li> <li>• Single Family Attached: 6.25% (2.88-3.06)</li> <li>• Multi-Family – 2 to 4 Units in one Building: 3.52% (3.12-3.23)</li> <li>• Multi Family 5+ Units*: 0.00% (2.29-2.29)</li> </ul> <p>*In the same building or one building</p> <p>It is important to note that by implementing this base recommendation the in-lieu fees will be slightly increased regardless of Council's recommendation regarding possible in-lieu fee adjustments.</p>			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• Housing Advisory Commission</li> <li>• SNI Project Advisory Committee (SNI PAC)</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul>			
<b>Alternatives Proposed:</b>			
None.			

## ***Attachment B: Base Recommendations***

***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

<b>Number:</b>	2	<b>Type of Change:</b>	Policy Recommendation
<b>Brief Description of Staff Recommendation:</b>			
Annual Fee Adjustment: Direct staff to return to Council each year with adjustments to the in-lieu fees to match the latest land value study as part of the Fees & Charges approval process.			
<b>Discussion of Staff Recommendation:</b>			
In November of each year, City staff commissions a residential land value study to determine the raw land values in each of the Multiple Listing Service Zones. The PDO and PIO in-lieu fees should be based upon the results of this study. By approving this recommendation, Council will be directing staff to bring forward the in-lieu fee adjustment each year that is based on the most recent land value study as part of the annual Fees and Charges approval process.			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"><li>• Parks and Recreation Commission</li><li>• Planning Commission</li><li>• Housing Advisory Commission</li><li>• SNI Project Advisory Committee (SNI PAC)</li><li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li></ul>			
<b>Alternatives Proposed:</b>			
Staff brings forward the annual in-lieu fee adjustments request as part of a separate Council item in June of each year.			
Staff does not recommend the alternative because once the parkland fees are aligned to 100% of land values, the annual adjustments in the in-lieu fees should be minimal in nature. It would be straightforward to reflect any changes in the current land values as part of the established annual Fees and Charges approval process, which has a public hearing and Council study session to review the proposed new fees and increases before Council approval in June.			

## ***Attachment B: Base Recommendations***

### ***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

<b>Number:</b>	3	<b>Type of Change:</b>	Fees and Credits Resolution
<b>Brief Description of Staff Recommendation:</b>			
Downtown Core Area Buildings of 12 stories or more: Revise the Ordinance and Fees and Credits Resolution to implement the proposal regarding buildings of 12 stories or more until 2500 unit count is reached			
<b>Detailed Description of Staff Recommendation:</b>			
Staff is recommending the following proposal for residential developments of 12 stories or more in the Downtown Core Area, as defined in the City's General Plan, until the 2500 <sup>th</sup> residential unit receives its building permit:			
<ol style="list-style-type: none"><li>1) Set in-lieu fees in the Downtown Core Area at 50% of the in-lieu fees based upon the most recent land value study;</li><li>2) Delay the in-lieu payments due until Final Inspection for Certificate of Occupancy is scheduled;</li><li>3) No private recreation credits will be granted to projects subject to the 50% reduction credit.</li></ol>			
Once the 2500 unit count is reached, projects of 12 stories or more will no longer be eligible for the above reduction credit and will return to the fee structure in place when their fees are paid and they will be eligible for private recreation credits. The unit count (to get to 2500) will begin once the ordinance changes are in effect.			
This alternative was originally proposed by the Downtown Association (see letter in Attachment C). It should be noted that the Downtown Association's letter requested that this reduction apply to projects 10 stories or more but they have verbally changed their recommendation to 12 stories or more (which matches with staff's proposal).			
It should also be noted that the Downtown Association's letter requested half of the final payment upon certificate of occupancy (COO). Staff has investigated the feasibility of receiving payments at COO and is recommending that the final payment be due at the time that the developer schedules their final inspection. This would align better with current processes and would not be a substantial time difference from the time the COO is received.			
In addition, the Downtown Association has since requested that all of the reduced fees be paid at COO as opposed to ½ up front and ½ at COO. The Parks and Recreation Commission and City staff have concurred with this proposal.			
Based upon the projected units to be constructed in the Downtown Core Area over the next 5 years, staff would anticipate collections of approximately \$50 million in in-lieu fees, assuming in lieu fees are increased to reflect 100% of 2005 land value fees from 2850 multi-family units. If the reduced fee is implemented, staff anticipates approximately \$30 million to be collected over this same this			

## ***Attachment B: Base Recommendations***

### ***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

time period. This does not account for the potential fee reductions from private recreation opportunities.

Providing this incentive to Downtown development is consistent with the “Downtown Revitalization” major strategy of the City of San Jose’s General Plan. The General Plan emphasizes that the high-rise character of Downtown development makes it a landmark for the entire City. The Downtown Core Area is also indicated as a special strategy area in the General Plan. An established downtown “serves as a focal point for business and vacation travelers and thus improves a city’s economic and cultural image.” The General Plan also states that residential development in the downtown will play a major role in the long range redevelopment of the downtown core. It indicates that following regarding planning for open space:

*Planning for open space in the downtown is based on an urban park concept, utilizing streetscape design along major vehicular and pedestrian corridors to link landscaped open spaces, paseos and the Guadalupe River. Street improvements to facilitate pedestrian traffic are emphasized. A gateway treatment is planned to signify arrival at major entry points into the downtown.*

Residential development in the Downtown Core Area will play a major role in the long range revitalization of the downtown area as a cultural and recreational hub for the City’s night-life. The difference between a suburban community and a great city can be distinguished by the presence of a vital downtown.

To remain consistent with the spirit of the strategies of the General Plan to facilitate the construction of high rise housing development in the downtown area, staff is supporting this proposal. However, it should be noted, if Council approves this recommendation, then these buildings will not be eligible to receive any private recreation credits, unless Council directs otherwise.

The Downtown Core Area under the PDO/PIO and per the General Plan is bounded by Coleman Avenue/Julian Street/St. James Street to the north, 4th Street and Civic Plaza to the east (Civic Plaza area is bounded by East St. John Street to the north, 7th Street to the east and San Fernando Street to the south), State Route 280 to the south, and White Street/Stockton Avenue/Southern Pacific Railroad tracks to the west.

#### **Commissions/Organizations Supporting:**

- Parks and Recreation Commission\*
- Planning Commission
- Housing Advisory Commission
- SNI Project Advisory Committee
- San Jose Downtown Association\*
- CalSJ – Citizens for a Livable San Jose (community based organization)

## ***Attachment B: Base Recommendations***

### ***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

- Home Builder's Association

\*The PRC and staff support the Downtown Association's proposal to pay all of the reduced fees at the COO, as opposed to ½ up front and ½ at COO. This proposal was not presented to the other commissions, so they supported ½ payment up front and ½ at COO. CalSJ supports the Downtown Association's original proposal of ½ the money up front and ½ at COO.

#### **Alternatives Proposed:**

1. Set in-lieu fees in the Downtown Area to 50% of land values until 2500 unit limit is reached, but do NOT defer any payment of fees until the developer requests scheduling the final certificate of occupancy inspection;
2. Expand the reduction to all buildings of 12 stories or more in height as opposed to just in the Downtown Core Area;
3. Do not reduce the in-lieu fees for these projects, but require 100% payment of fees in effect at the time of payment, minus any private recreational credits, with no additional payment deferral than those already allowed by either the PDO or PIO.

The payment deferral is justified since these multiple story buildings cannot be phased like normal subdivision projects. In addition, the reduction in the Downtown is consistent with the strategies of the General Plan. Expanding the reduction to buildings of 12 stories or more outside the Downtown Core Area does not further the Downtown development goals of the General Plan.



## ***Attachment B: Base Recommendations***

*Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Number:</b>	4	<b>Type of Change:</b>	Fees and Credits Resolution
<b>Brief Description of Staff Recommendation:</b>			
<p>Pipeline Project Program: Implement a six month grace period from the date of adoption of the Ordinance (or July 1, 2007, whichever is the later date) to allow housing projects to obtain an approved Plan Development Permit, Conditional Use Permit, Site Development Permit, or Tentative Map in order to be eligible to pay under the current in-lieu fee schedule until January 31, 2009.</p>			
<b>Detailed Description of Staff Recommendation:</b>			
<p>Projects with an approved Plan Development Permit (PDP); Conditional Use Permit (CUP), Site Development Permit (SDP), or Tentative Map (Map) on or before the date six months following the adoption of the ordinance (2<sup>nd</sup> reading), or by July 1, 2007, whichever is the later date:</p> <ul style="list-style-type: none"> <li>• These projects will be “grandfathered” under the current fee resolution. This means that the developer will be subject to both the fees and credits specified in the prior Fees and Credits Resolution and will not be allowed to obtain additional private recreation credits or credits for stormwater detention. If desired, the developer can decide to pay their fees under the new fee resolution.<sup>1</sup></li> <li>• These projects will have until January 31, 2009, to pay their in-lieu fees in order to be subject to the current Fees and Credits Resolution. Otherwise they will be subject to the Fees and Credits Resolution in effect at the time they pay their fees.</li> </ul>			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• Housing Advisory Commission</li> <li>• SNI Project Advisory Committee</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul> <p>*It should be noted that the staff proposal approved by the above organizations included February 2007 as the “cut off” date for grandfathering projects. Staff has since shifted the staff recommendation to allow for six month grace period following second reading of ordinance. This change will likely move this “cut off” date to July 2007.</p>			

<sup>1</sup> If the “Downtown 50% Reduction” is approved by Council, the fees for buildings of 12 stories or more in the Downtown Core Area will be reduced from the proposed in-lieu schedule. Therefore, staff is recommending that developers be provided the flexibility to utilize the new fees and credits once these become effective.

## ***Attachment B: Base Recommendations***

### ***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

#### **Alternatives Proposed:**

1. For all projects, delay payment of in-lieu fees until the close of escrow for the sale of the residential unit to the homebuyer as requested by the Home Builder's Association.
2. Allow only one year for pipeline projects to obtain Building Permit or Final Map to remain grandfathered under the current fee structure as recommended by CalSJ;
3. Allow one year (as opposed to the 6 months recommended by staff) for current projects to obtain an approved PDP, CUP, SDP or Tentative Map to allow these projects to be grandfathered under the current in-lieu fees based on the 70% of 2001 land values as proposed by Sobrato Development;
4. Allow developers to have only an application for PDP, CUP, SDP or Tentative Map to be grandfathered under the current in-lieu fees based on 70% of the 2001 land values as proposed by the Home Builders Association of Northern California (HBANC).

City staff is not supporting these alternative solutions. Collection of in-lieu fees through the escrow for the sale of the home would be an administrative burden for the City due to the multiple payments and would expose the City to a potential loss of fees. The City does not collect any of its residential development fees through the sale of the homes and would need to establish a new process. Further, the City would need to maintain its existing processes for the collection of fees for residential units that are rental units. The proposed six month grandfather period following the adoption of the ordinance provides sufficient time for projects that are moving forward expeditiously to take advantage of the pipe-line program. Staff does not support the ability for developers to have only an application on file as this would extend the length of time projects could be in the pipeline and create an administrative tracking burden.

## ***Attachment B: Base Recommendations***

*Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Number:</b>	5	<b>Type of Change:</b>	Fees and Credits Resolution
<b>Brief Description of Staff Recommendation:</b>			
Future Projects: Future fees adjustments recommended by staff and approved as part of the regular Fees and Charges approval process by the City Council in June would take effect on February 1 <sup>st</sup> of the following year.			
<b>Detailed Description of Staff Recommendation:</b>			
<b><u>Future Projects (moving forward in future years – using 2007-2008 as an example)</u></b>			
<ul style="list-style-type: none"> <li>• April 2007 – City staff receives annual land value study and proposes changes in the in-lieu fees as part of the Annual Fees &amp; Charges Report;</li> <li>• Between April and June – City staff presents recommended revised in-lieu fees to the Parks and Recreation Commission (PRC) and the Building Strong Neighborhoods Committee (BSN);</li> <li>• June 2007 – Council approves Annual Fees &amp; Charges Report</li> <li>• February 1, 2008 – New Fee Resolution goes into effect             <ul style="list-style-type: none"> <li>○ Implementation of new fee resolution will be delayed for approximately 7 months to allow developers time to plan ahead for new fees;</li> <li>○ Projects are subject to the Fees and Credits in effect at the time of payment.</li> </ul> </li> </ul>			
If the in-lieu fees are set at 100%, the changes from one year to the next should be minimal compared to the swing in land values from 1998 to 2004. Projects with PD zoning can pay their PDO/PIO in-lieu fees in advance of obtaining development permits.			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• Housing Advisory Commission</li> <li>• SNI Project Advisory Committee</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul>			
<b>Alternatives Proposed:</b>			
<ol style="list-style-type: none"> <li>1. The Home Builder's Association would like any adjustments to the in-lieu fees and credits associated with the PDO and PIO to be a separate item from the approval of the Annual Fees and Charges Report</li> </ol>			
The process recommended by staff of including the update in the annual Fees & Charges Report, as well as a separate presentation to the PRC and BSN meets the requirements of public posting and notification and provides stakeholders ample opportunity to review the information and provide comments and feedback to staff and the City Council.			

## ***Attachment B: Base Recommendations***

***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

<b>Number:</b>	6	<b>Type of Change:</b>	Ordinance
<b>Brief Description of Staff Recommendation:</b>			
Low-Income Units: Continue the exemption of low-income, very-low income, and extremely Low-income units which have at least a 30-year restriction on them from the PDO & PIO.			
<b>Detailed Description of Staff Recommendation:</b>			
Low income exemption: Continue the exemption of low-income and very-low income units which have at least a 30-year restriction on them from the PDO & PIO. PRNS staff will continue to work very closely with Housing Department and Redevelopment Agency staff to ensure that attention is focused on ensuring neighborhood and community serving park opportunities are provided to residents of new affordable housing projects, which are exempt from the PDO and PIO.			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• Housing Advisory Commission</li> <li>• SNI Project Advisory Committee</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul>			
<b>Alternatives Proposed:</b>			
<p>Alternatives to this proposal would be as follows These alternatives have not been formally proposed by any organizations and are not supported by staff:</p> <ol style="list-style-type: none"> <li>1. Remove the exemption – Removing the exemption for low income housing would result in additional costs for constructing affordable housing units and may result in a need for increased subsidy by the City. Because City funds for affordable housing are limited this would likely lead to a decrease in the number of affordable units that can be subsidized and constructed</li> <li>2. Reinststitute the Voucher Program – Since 1998 the Redevelopment Agency has contributed \$21 million to the Park Trust Fund under the Voucher Program. Unfortunately, due to a reduction in tax increment funds, the SJRA does not have sufficient funds to continue the voucher program as well as meet the other program and project priorities established by the Agency Board.</li> </ol>			

## ***Attachment B: Base Recommendations***

*Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Number:</b>	7	<b>Type of Change:</b>	Ordinance and Fees and Credits Resolution
<b>Brief Description of Staff Recommendation:</b>			
Recreational Facilities: Revise the Ordinances to permit the expenditure of in-lieu fees upon “recreational facilities” in addition to neighborhood and community parks and to permit a developer to obtain credit for the dedication or construction of eligible recreational facilities.			
<b>Detailed Description of Staff Recommendation:</b>			
<p>The proposed amendments will allow, among other things, money to be spent on trails, community gardens, school improvements, and other recreation facilities not located within a neighborhood or community park site. Developers will also be allowed to receive credit for land dedicated for these purposes as well as turnkey improvements.</p> <p>Staff recommends that both Ordinances be revised to add definitions for “recreational facilities” and “trail dedication” to the PDO and PIO similar to:</p> <p>“Recreational Facilities” means recreational trails, community gardens, community centers, sport fields and sports and recreational amenities on public school properties for which a joint-use agreement has been executed between the City and the school district for a time period equivalent to the anticipated life of the improvement.</p> <p>“Trail dedication” shall mean the dedication of either an easement or fee title of land associated with one of the trails listed in the Greenprint or the General Plan.</p> <p>The basis for calculating the land eligible for trail dedication shall be set forth in the Fees and Credits Resolution and will generally provide: The area of land calculation shall consist of the length of trail that is 24 feet wide trail corridor, through a parcel(s) of land not already dedicated for park purposes. The square footage of the trail area (length of trail x 24 feet) will be counted toward recreational credits under the PDO or PIO as dedicated parklands.</p>			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• Housing Advisory Commission</li> <li>• SNI Project Advisory Committee</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul>			
<b>Alternatives Proposed:</b>			
None			

## ***Attachment B: Base Recommendations***

*Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Number:</b>	8	<b>Type of Change:</b>	Ordinance
<b>Brief Description of Staff Recommendation:</b>			
Useable Parkland: Revise the ordinances to ensure dedicated land is useable for park purposes.			
<b>Detailed Description of Staff Recommendation:</b>			
Currently, both Ordinances specify certain requirements that land proposed for park dedication must meet. Staff proposes additional requirements. In order to be eligible, the proposed parcel must be: <ul style="list-style-type: none"><li>• At least an acre in size</li><li>• Excludes hillsides over a 10% grade, riparian setback area, and/or environmental mitigation areas;</li><li>• Is sufficiently flat;</li><li>• Will be located adjacent to a public street in order to facilitate policing.</li></ul>			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"><li>• Parks and Recreation Commission</li><li>• Planning Commission</li><li>• Housing Advisory Commission</li><li>• SNI Project Advisory Committee</li><li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li></ul>			
<b>Alternatives Proposed:</b>			
None			

## ***Attachment B: Base Recommendations***

*Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Number:</b>	9	<b>Type of Change:</b>	Fees and Credits Resolution
<b>Brief Description of Staff Recommendation:</b>			
Private Recreation: Revise the Fees and Credits Resolution to expand developer's opportunities to receive private recreational credits under the PDO and PIO.			
<b>Detailed Description of Staff Recommendation:</b>			
<p>Private recreation credits can equal up to 50% of the total project obligation and are privately owned and maintained. In order to be eligible for private recreation credit, the developer must provide certain "active recreation" elements which include:</p> <ul style="list-style-type: none"> <li>• Children's play areas with play equipment that meets State standards;</li> <li>• Picnic areas of 3 tables or more and a BBQ pit;</li> <li>• Hard or soft regulation game court area with safety zones;</li> <li>• Open area of 8,000 square feet minimum of uninterrupted fairly flat contiguous turf for informal or formal active recreation activities such as field sports.</li> </ul> <p>Allow the following additional uses to qualify and receive credit under the "active" private recreational credit category:</p> <ul style="list-style-type: none"> <li>• Private Plaza area of 900 square feet adjacent to public right-of-way, with seating equaling to 75% of perimeter dimension of the site and open to the public at least 360 days per year;</li> <li>• Private Garden area of 900 square feet adjacent to public right-of-way, with seating equaling to 30% of perimeter dimension of the site and open to the public at least 360 days per year;</li> <li>• Private pet amenities areas of at least 300 square feet for exclusive use by the residents of the housing project;</li> <li>• Private garden plots of 100 square feet per plot for exclusive use by the residents of the housing project of plant materials.</li> </ul> <p>Private swimming pools, spas, community rooms and/or recreational rooms can receive credits for square footage up to the total square footage of the active recreational elements described above, or up to the total square footage of land dedicated to the City for public parks and recreational purposes. The 50% total cap on all private recreation credits still applies.</p>			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• SNI Project Advisory Committee</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul>			

## *Attachment B: Base Recommendations*

### *Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Alternatives Proposed:</b>
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- |  |
|--|
| <ol style="list-style-type: none"><li>1. The Housing Advisory Commission proposed that the maximum credits a developer should be able to receive for private recreation credits be limited to 30% as opposed to 50%.</li></ol> |
|--|

<p>Staff recommends 50% as this remains consistent with current practices and reducing this to 30% would take away an incentive currently available to the development community.</p>
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## ***Attachment B: Base Recommendations***

*Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Number:</b>	10	<b>Type of Change:</b>	Fees and Credits Resolution
<b>Brief Description of Staff Recommendation:</b>			
Private Recreation: Revise the Fees and Credits Resolution to exempt housing projects over 5 stories from the active recreational element requirements in order to obtain private recreational credits.			
<b>Detailed Description of Staff Recommendation:</b>			
<p>Staff proposes that housing projects over 5 stories shall be excluded from the active recreational element requirements for private recreational credits. Therefore they do not have to have one of the active elements listed above in No. 9, in order to be eligible for private recreational credits for pools, spas, community rooms and/or recreational rooms. However, private recreational credits will still be limited to the maximum of 50% of the total parkland obligation for a housing project.</p> <p>This means that swimming pools, spas, community rooms, recreational rooms, and/or exercise rooms in such housing projects over 5 stories can receive private recreational credits for the actual square footage of the amenity provided, up to 50% of the project's total parkland obligation under the PDO and PIO.</p>			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• Housing Advisory Commission</li> <li>• SNI Project Advisory Committee</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul>			
<b>Alternatives Proposed:</b>			
<ol style="list-style-type: none"> <li>1. An alternative which has been proposed for this recommendation is to limit this exemption to projects in the Downtown Core Area only.</li> </ol> <p>Staff is recommending providing this exemption to all projects over 5 stories to encourage the creation of private recreational amenities for residents of these developments citywide.</p>			

## ***Attachment B: Base Recommendations***

***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

<b>Number:</b>	11	<b>Type of Change:</b>	Ordinance
<b>Brief Description of Staff Recommendation:</b>			
Private Recreation: Revise the Ordinance to clarify that areas receiving credit for private recreation must be useable for recreational purposes.			
<b>Detailed Description of Staff Recommendation:</b>			
Building set back areas, landscape corridors, projects walkways, steep topography areas, riparian corridor set back areas and/or environmental mitigation areas that preclude recreational activities are not eligible for private recreational credits under both Ordinances.			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"><li>• Parks and Recreation Commission</li><li>• Planning Commission</li><li>• Housing Advisory Commission</li><li>• SNI Project Advisory Committee</li><li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li></ul>			
<b>Alternatives Proposed:</b>			
None			

## ***Attachment B: Base Recommendations***

*Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

<b>Number:</b>	12	<b>Type of Change:</b>	Ordinance
<b>Brief Description of Staff Recommendation:</b>			
Stormwater Detention: Revise the Fees and Credits Resolution to allow stormwater detention areas within privately owned and maintained projects to receive private recreational credits for dual-use areas, if such areas meet the private recreational criteria in 9 above.			
<b>Detailed Description of Staff Recommendation:</b>			
<p>Stormwater detention areas used for stormwater treatment and/or erosion control in (hydromodification ) meeting the requirements of the City's stormwater system Permit and also used for active recreational purposes must be of a minimum size of 8,000 square feet of uninterrupted fairly flat contiguous turf for informal or formal active recreation activities such as field sports, provided that appropriate maintenance practice for the dual-use facilities are followed. The City will give full private recreational credits up to the 50% cap of the project's total parkland obligation under both Ordinances for such recreational detention area based on actual square footage that can be used for recreational purposes as stated in Item 8, above. The developer will be required to maintain the functionality of the entire area needed for stormwater detention, in addition to maintaining the area for private recreational use.</p> <p>Staff will need to evaluate each proposed dual use purpose facility to ensure long-term compatibility of the uses and that an appropriate funding mechanism is in place to address the ongoing maintenance needs of the dual use facilities.</p> <p>The 50% cap on the total obligation is consistent with the cap placed on any private recreational amenities.</p>			
<b>Commissions/Organizations Supporting:</b>			
<ul style="list-style-type: none"> <li>• Parks and Recreation Commission</li> <li>• Planning Commission</li> <li>• Housing Advisory Commission</li> <li>• SNI Project Advisory Committee</li> <li>• CalSJ – Citizens for a Livable San Jose (community based organization)</li> </ul>			
<b>Alternatives Proposed:</b>			
None			

## ***Attachment B: Base Recommendations***

### ***Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution***

<b>Number:</b>	13	<b>Type of Change:</b>	Ordinance
<b>Brief Description of Staff Recommendation:</b>			
Stormwater Detention: Revise the Ordinances to provide 50% credit for stormwater detention areas dedicated to the City for the dual purposes of public parklands and stormwater detention/filtering areas up to a maximum of 50% of the total land dedicated to the City.			
<b>Detailed Description of Staff Recommendation:</b>			
<p>In October 2001, the Regional Water Quality Control Board (RWQCB) issued a revised NPDES permit (Order No. 01-119) and on July 20, 2005 the Permit was further amended by the RWQCB (Order No. R2-2005-0035). Those revisions amended provision C.3 of the Permit and established new requirements for control of runoff from development projects—both public and private—through the implementation of stormwater control measures using specific sizing requirements to: (1) minimize the discharge of pollutants from impervious (e.g. paved) surfaces; and (2) minimize the impacts of increased stormwater runoff flows and velocities on local creeks which can result in creek erosion.</p> <p>City Council Policy 6-29 entitled Post-Construction Urban Runoff Management and Policy 8-14 entitled Post-Construction Hydromodification Management are the City's primary mechanisms for implementing the new and redevelopment provisions of the Santa Clara Valley watershed-wide Permit. As required by the Permit, Policy 6-29 establishes requirements for the installation of stormwater treatment controls, such as detention/retention structures, infiltration basins, and vegetated swales in projects creating, replacing or expanding 10,000 square feet or more of impervious surface. Additionally, Policy 8-14 established requirements for the installation of hydromodification controls such as detention and retention ponds for projects that increase surface runoff.</p> <p>Stormwater treatment and hydromodification controls can require significant allocations of land in any given development project; however, some stormwater treatment and hydromodification controls measures such as detention basins, can be suited for recreational use during the dry season and between storms. Other cities such as Santa Barbara and Chicago allow joint stormwater and recreational facilities, provided the facility is designed and maintained appropriately to allow both functions. By allowing partial PDO/PIO credits for stormwater facilities that are also designed to be of public recreational value when they are not actively being used for stormwater treatment and detention, the City can increase its inventory of neighborhood and community serving parkland, improve water quality, and prevent erosion in the City's creeks and rivers. However, the need to maintain the functionality of a facility for stormwater treatment and detention purposes imposes design and maintenance constraints that would not otherwise apply to a recreational facility. Staff will need to evaluate each proposed dual use purpose facility to ensure long-term compatibility of the uses and that an appropriate funding mechanism is in place to address the ongoing maintenance needs of publicly owned dual use facilities. Staff's recommendation proposes that dual use credit for public facilities only be given when long term compatibility of use can be ensured and ongoing</p>			

## *Attachment B: Base Recommendations*

### *Parkland Dedication and Park Impact Ordinances Proposed Changes including the associated Fees and Credits Resolution*

maintenance funding secured.

#### **Commissions/Organizations Supporting:**

- Parks and Recreation Commission
- Housing Advisory Commission
- SNI Project Advisory Committee

#### **Alternatives Proposed:**

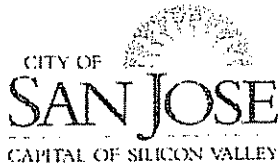
1. The Planning Commission and CalSJ have both proposed to limit developer's credits regarding dual use areas on public park property to a maximum of 25% of their parkland obligation.

Staff recommends providing credits up to 50% of the parkland obligation to remain consistent with the 50% credits provided for private recreational facilities and to further encourage innovative methods of stormwater detention.

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## **Attachment C: Letters Received**

*Letters are attached from the Parks & Recreation Commission, Housing Commission, Home Builders Association of Northern California, San Jose Downtown Association and CalSJ. Staff anticipates letters from the Planning Commission and the SNI PAC to be submitted under separate cover.*



*Parks, Recreation and Neighborhood Services*

PARKS AND RECREATION COMMISSION

October 5, 2006

Honorable Mayor and City Council  
City of San José  
200 East Santa Clara Street, 18<sup>th</sup> Floor Tower  
San José, CA 95113

Dear Honorable Mayor and Members of City Council:

The Parks and Recreation Commission (Commission) unanimously supports making several adjustments to the Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO) and Associated Fees and Credits Resolution to enable the City of San Jose to continue providing parks and recreational facilities commensurate with City General Plan goals and community desires.

The Commission held two public forums on July 19 and August 2, 2006; a joint study session with the Planning Commission on August 8, 2006; and an open meeting on September 6, 2006 to discuss and develop our recommendations regarding proposed changes to both ordinances and the Associated Fees and Credits Resolution.

In 1998, the PDO and PIO were revised with the intent of linking in-lieu fees to current land values. The objective of in-lieu fees is to enable land banking to provide for future park development in lieu of dedicating small parcels of land as each new development comes online. This fee banking allows the City to select park sites and facilities within neighborhoods that are desired to the community in terms of size, location and use. Since 1998, the City Council has adjusted the fees associated with the PDO/PIO only once -- in June 2002.

Currently, the fees are set at 70% of the 2001 land values. A phased approach was originally used to lessen the impacts of land values going from a single citywide cost of \$14 per square foot in 1998 to \$50 per square foot in 2002. The intent was to increase the fees to 85% of current land values in the second year, then 100% of current land values in the third year. Due to economic circumstances, this phasing never occurred, nor were fees adjusted to reflect current land values. Even today, fees remain at 70% of 2001 land values.

The Commission urges council to set fees at 100% of 2005 land values. We cannot afford to fall further behind in our critical mission of ensuring that the City has adequate parkland and recreational facilities consistent with our General Plan goals. For your information, our recommendations are reflected along with staff's recommendations as they were laid out at the September 6, 2006 Parks and Recreation Commission meeting.



Honorable Mayor and City Council  
October 5, 2006  
Page 2

One important recommendation is the Commission's endorsement of the Downtown Association's proposal to set fees for the first 2500 units associated with high-rise development in the downtown core area at 50% of the current fee. In addition, collection of fees would occur at the time of Certificate of Occupancy due to the nature of high-rise construction. The Commission understands that the high-rise developments in the downtown area are experimental and believe their potential benefits to the City warrant this exemption. Our position on the remainder of staff's recommendations is included in staff's report to Council.

The Commission does not believe that the Greenprint needs to be updated **prior** to adjusting the fees to 100% of current land values. Adjusting the fees **now** will provide us with the tools needed to develop a reasonable plan for parks and recreational facilities projects over the next 13 years. The City Council has already approved updating the Greenprint and staff has begun that important work. These two actions – adjusting the fees to 100% of current land values and updating the Greenprint – are complementary activities that should take place concurrently.

We are also very cognizant of the need to continue finding solutions for ongoing parks maintenance and operations. We are currently in the process of working with the Planning Commission on this issue and look forward to future dialogue with you on a resolution of this critical issue.

Sincerely,



Helen Chapman, Chair  
Parks and Recreation Commission



*Department of Housing*  
HOUSING ADVISORY COMMISSION

October 5, 2006

The Honorable Mayor and City Council  
200 East Santa Clara Street  
San Jose, CA 95113

**RE: PDO/PIO LANGUAGE AMENDMENTS AND IN-LIEU FEE ADJUSTMENTS  
CITY COUNCIL AGENDA 10/24**

Dear Honorable Mayor and City Council:

At the Housing Advisory Commission meeting on September 14, 2006, the Commission discussed the alternatives and base recommendations regarding the Parkland Dedication/Impact Ordinances and associated fee resolution. The information below summarizes the HAC's positions regarding these issues.

HAC's positions on Parkland Dedication/Impact Ordinances and associated fee resolution:

- The HAC expressed unanimous support for Alternative #4, which would adjust fees to 100% of 2005 land values.
- Base Recommendation No. 3: The HAC supports the alternative proposed by the San Jose Downtown Association, which would require high-rise projects to pay 50% of in-lieu fees up-front and 50% when the certificate of occupancy is issued.
- Base Recommendation No. 7: The HAC unanimously supports the continuation of the exemption for low-income and very-low income units (including extremely low-income units) and recommends that for-profit developers be allowed to benefit from this exemption.
- Base Recommendation No. 13: The HAC recommends that private recreation credits for projects over five stories, be limited to a maximum of 30% of credits going towards private recreation.
- The HAC unanimously supported all of the other base recommendations not listed above.

As mentioned above, the HAC unanimously voted to recommend that the Mayor and City Council support Alternative #4, which would adjust in-lieu fees to 100% of 2005 land values. The Commission was pleased to see that staff is recommending that low-income and very-low income units continue to be exempted from PDO/PIO fees (Base Recommendation 7). The Commission believes it is very important to demonstrate the City's commitment to building affordable housing by removing the barriers created by such fees.

We appreciate your attention to our recommendation. Please do not hesitate to contact me if you have any questions.

Sincerely,

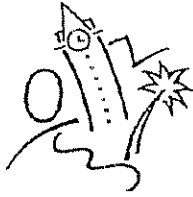
TOM FINK  
Housing Advisory Commission, Chair



**San Jose Parks Issue**  
**Home Builders Association of Northern California**  
**Points: 10/4/06**

While HBANC agrees that fee reductions for the Downtown High Rise buildings are helpful (50% for the first 2500 units), and that they will be good for economic development in San Jose, we also believe that these changes do not address our core issues with the Parks In Lieu Fees program:

1. For projects already in the pipeline for PD Zoning or Permits or a Map (application on file, being processed), that there be granted a pipeline exemption that is one year from the effective date of the ordinance
2. HBANC would like to have all Parks In Lieu Fees paid at Close of Escrow for For Sale product or at Certificate of Occupancy for Rental product, rather than up front as is currently the practice
3. Assessment of Parks In Lieu Fees:
  - a. Parks fees should continue to be heard in the appropriate Council committees before being presented to the Council for a vote. Because of their size and their impact on housing production they should not be listed as a line item in the annual Fees and Charges report to the Council
  - b. Following the 2006 Land Value Study, parks In Lieu fees should be computed every two years, rather than annually; this would produce a more valid estimate of land costs
4. HBANC believes that before the San Jose City Council votes to raise Parks In Lieu Fees to the 100% level, that there should be a solid program developed by the Parks, Recreation and Neighborhood Services Department to address the following issues:
  - a. Update the San Jose Greenprint
  - b. Develop a Parks Annual Work Program
  - c. Develop and execute a Parks Maintenance Program
5. Prior to the adoption of a new fee structure, HBANC wants the Parks Department to undertake a complete Parks Utilization Study:
  - a. Work with neighborhood groups and others
  - b. Learn where new parks are needed
  - c. Determine where upgrades or additional infrastructure is necessary for existing parks



**SAN JOSE DOWNTOWN  
ASSOCIATION**

26 N. FIRST STREET  
SUITE 1000  
SAN JOSE, CA 95113  
TEL: 408-279-1775  
FAX: 408-279-1904  
WWW.SJDOWNTOWN.COM

COPY

August 9, 2006

Helen Chapman, Chair  
Parks and Recreation Commission  
City of San Jose  
200 E. Santa Clara Street  
San Jose, CA 95113

Re: Downtown High Rise Residential Incentives

Dear Helen,

The San Jose Downtown Association values and appreciates all the public support to date to encourage high rise housing in downtown, particularly the understanding of how denser housing in the core will positively influence retail, safety and vibrancy. We appreciate the Parks and Recreation Commission's openness to consider our goals and objectives for a better downtown.

The Association acknowledges the good work of the Commission and the Parks, Recreation and Neighborhood Services staff in proposing additional "active elements" under the private recreational credits to assist downtown core developments satisfy up to 50 percent of their parkland obligation. However, the credits for "private recreational amenities" are cumbersome to define, administer and calculate. Furthermore, in applying the proposed credits to several downtown high rise projects currently under development, the projects do not come anywhere close to gaining the allowable credit.

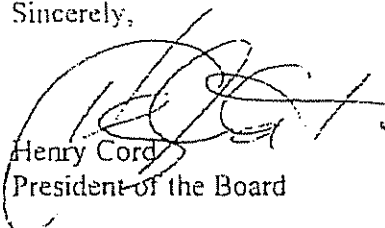
The staff proposal is to raise downtown multi-family fees per unit from \$10,500 to \$15,200 per unit in 2007 and \$17,850 in 2008, respectively a 45% and 70 % increase over 2006 rates. The market downtown is far from assured, and the recent news that Hanover Co. halted their Marshall Squares project is a reminder the road forward for high rise housing will have its bumps.

The Downtown Association recommends a straight 50 percent reduction of park fees per unit for downtown high-rise projects. The incentive should expire when 2,500 new downtown high-rise units achieve their Certificate of Occupancy (COO) starting from the date the incentive is approved. (For instance, there are currently 1,486 high-rise units under development today that haven't reached COO stage). This proposed fee reduction incentive would apply only to high-rise projects of 10 stories or more located in the downtown core (approximate boundaries: Highway 280 on south; 7<sup>th</sup> Street on east; Julian Street on north and Highway 87/Caltrain tracks/Stockton Avenue on west). Furthermore, we recommend that the downtown high-rise

park fees should be payable to the City of San Jose in increments: half upon building permit approval and remainder at COO (rather than all up front).

We look forward to discussing these recommendations with you soon in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry Cord", is written over a circular stamp or seal. The signature is fluid and somewhat abstract.

Henry Cord  
President of the Board

cc: SIDA Executive Committee members  
Scott Knies



September 24, 2006

Citizens for a Livable San Jose (CalSJ) respectfully submit the following recommendations regarding the PDO/PIO in-lieu fee alternatives and base changes proposed by Staff as of 8/31/06:

**CalSJ Supports:**

- **Adjustment of fees to 100% of 2005 land values.** Using the 2000 Federal census data as required by the Quimby Act and bringing adjustment into the fees and charges process.
- Timing of changes proposed to be 30 days following the 2<sup>nd</sup> reading of the ordinance.
- Enhancement and clarification regarding dedicated parkland: "...at least 1 acre in size..."
- Treating **high-rise development** in a manner similar to other projects without payment delays, except as noted below.
- San Jose Downtown Association's recommendation to discount the first **2500 high-rise units in the downtown core** (including current pipeline units) with no private recreation credits under specific conditions. If the proposal is deemed legally viable, payment may be deferred on half of a project's units until Certificate of Occupancy (COO) is awarded. Payment must be at least 50% of land value at time of COO, not less than 50% of 2005 land value, and 100% of current land value must be in place throughout the city.
- Continued **inclusion of SRO** units as housing type for purpose of calculating PDO/PIO
- Continued **exemption from PDO/PIO fees of Low and Very Low Income** units with a minimum 30-year restriction on them. We would also support a fee discount on for-sale moderate-income units in 100% affordable developments only, if deemed legally viable.
- Proposed additions to amenities listed for private recreation credits (garden & pet areas...)
- Inclusion of "...or recreational facilities..." to reflect language of the state Quimby Act and allow more flexibility of fund usage (trails, community gardens...).
- Enhanced wording regarding joint use agreements, and careful application of such agreements to ensure financial justification and minimum levels of public access.

**CalSJ Recommends:**

- **Limiting private recreation credits and credits for encumbered property on dual use sites to 25% (not 50%).** This is a new policy that is experimental and needs monitoring.
- **Actively pursuing internal and external funding sources** (e.g. HUD grants) and funding a staff position, if needed. This will ensure all citizens of San Jose, regardless of economic status, have equal access to recreational facilities. This will also compensate for the loss of previous RDA funding through the voucher program, which has sunsetted.

**CalSJ Does Not Support:**

- Two-year extension for pipeline projects to obtain building permits or final maps in order to be subject to the fee in place at the time the permit or map was approved by the city.

Respectfully,

Kerri Hamilton, Chair



*Department of Planning, Building and Code Enforcement*  
JOSEPH HORWEDEL, ACTING DIRECTOR

October 11, 2006

Honorable Mayor and City Council members  
City of San José  
200 East Santa Clara Street, Tower 18  
San José, CA 95113

Subject: Changes to the Parkland Dedication Ordinance, the Park Impact Ordinance, and the Associated Fees and Credits Resolution

Dear Honorable Mayor and City Council members,

The Planning Commission (Commission) supports various adjustments to the Parkland Dedication Ordinance (PDO), the Park Impact Ordinance (PIO), and the Associated Fees and Credits Resolution as stated in this letter.

The Planning Commission held a joint study session with the Parks and Recreation Commission on August 9, 2006, and an open meeting on September 13, 2006, to discuss and develop our positions regarding proposed changes to both ordinances and the Associated Fees and Credits Resolution.

The Commission supports the alternative to raise the in-lieu fees to 100 percent of the 2005 land values, and to have the in-lieu fees adjusted annually by the City Council. The Commission supports the idea of land banking sites for future park development.

The Commission agrees with the use of the 2000 Census data in calculating the PDO/PIO requirements associated with a housing project.

The Commission endorses the Downtown Association's proposal regarding the first 2,500 units associated with high-rise development in the downtown area to be set at 50 percent of the in-lieu fees for such units. The Commission understands that the high-rise developments in the downtown area are still an experiment. The Planning Commission encourages the City Council to reduce the fees for high-rise developments within the downtown Area to half of the fee based on the land value study for the downtown area (MLS Area # 9). Such units at this reduced fee rate would not be eligible for any private recreational credits. The Commission supports the Downtown Association's proposal to also defer collection of half of the fees for high-rise projects in the downtown Area to the Certificate of Occupancy (COO).

The Commission supports staff's recommendation regarding pipeline projects to give existing projects with a Planned Development Permit, Site Development Permit, or Tentative Map extra time to pay under the current fee structure.

The Commission endorses staff's recommendation regarding the implementation of the proposed changes to the ordinances.

The Commission supports the continuation of the Single Residential Occupancy (SRO) as a housing type.

The Commission agrees with the exemption for low and very-low income units with 30-year restrictions from the PDO/PIO.

The Commission agrees with staff recommendations regarding word changes to both ordinances in order to expand the use of the Park Trust Fund and/or credits available to developers.

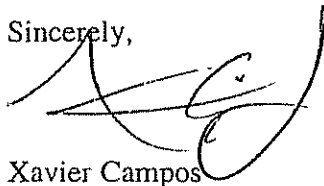
The Commission approves of the idea that residential projects over five stories outside the downtown area and for projects exceeding 2,500 units limit within the downtown area, would be excluded from the active recreational element requirements in order to obtain private recreational credits under the PDO/PIO.

The Commission supports staff's recommendation regarding a 50% credit associated with water detention and filtering areas that can also be used for private recreational spaces. However, the Planning Commission stated that these dual use areas are an experiment for the City, especially in terms of future required maintenance demands, and therefore recommends the credits should be reduced to 25 percent for such areas to be used as public parkland.

The Commission does not believe that the Greenprint needs to be updated first, in order to adjust the in-lieu fees to 100 percent of the current land values, but should be addressed concurrently in a timely fashion.

The Planning Commission is concerned with the limited parkland available to the citizens of San José. The proposed changes to the Parkland Dedication Ordinance, Park Impact Ordinance and the Associated Fees and Credits Resolution will help the City to implement the General Plan's goal of providing 3.5 acre of neighborhood/community serving parkland per 1000 population. The Commission is also requesting that the City consider creation of a staff position to look for grant opportunities to support Parks, Recreation, and Neighborhood Services in its endeavor to provide recreational services to the City

Sincerely,

A handwritten signature in black ink, appearing to read 'Xavier Campos', written over a horizontal line.

Xavier Campos  
Chair, Planning Commission